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THE LEGAL AND POLITICAL PHILOSOPHY OF LEONARD NELSON[1]

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I. IMPLICATIONS FOR JURISPRUDENCE

The legal philosophy of Nelson is fundamentally a liberal doctrine. It is, on the one hand, opposed to the philosophy which places a supreme trust in human reason and which believes that man can sit down and codify a system of laws in which there will be no gaps; and, on the other, it is opposed to a belief in the necessary rationality of existing institutions in the onward sweep of human history, the idea which was so dear to the Historical School of jurisprudence.

Nelson is a *Naturrechtlehrer* in the sense that he believes in the existence of metajuristic criteria of justice. That there are elemental principles of justice which are universal, and according to which laws are either just or unjust, decisions either right or wrong, Nelson believes cannot be denied. The moment we admit the injustice of a statute, or a judicial decision, we admit that we have used a criterion on which to base our opinion. The mistake we make, however, is to suppose that we can discover criteria, either empirically or logically. They are judgments of what we think ought to be (*Sollensurteilen*); and we arrive at them, in the last analysis, on the basis of what Nelson calls *Anschauung*,[2] which depends upon our whole philosophy of life as fashioned by our social-economic and

[1] Leonard Nelson succeeded Joseph Kohler as professor of public law at Berlin in 1910. Here is a true Kantian, who in the midst of the World War had the courage to write *Die Rechtswissenschaft ohne Recht*, and who founded a school of jurisprudence which did not go over to the philosophy of Helmuth Nicolai and the "Hitler Code" Commission.

[2] Nelson, *Über die sogenannte Erkenntnisproblem* (Göttingen, 1908), S. 464.

cultural background.[3] Their origin is necessarily vague (*ursprunglich dunkel*), but it is nevertheless the only positive source; and, though subjective in their foundation, such criteria may be used as an objective measure of validity and justice.

Nelson's fundamental legal norm, the *Rechtsgesetz*, or "law of laws," proceeds from his concept of law as such. His concept of law is not derived from the ideas concerning man in a "state of nature" (*Naturzustand*), as that term was understood in the natural-law theories of the *Aufklärung* period. Instead, Nelson's concept of law is derived from the ideas concerning man in a legal state (*ein rechtlicher Zustand*). The chief characteristic of law is its absolute necessity. Law is "natural" in the sense that it is necessary. Law and coercive government are not necessary because of man's depraved nature, but because he is a reasonable being (*einvernünftiges Wesen*), and, as a reasonable being, is interested in his right to self-improvement (*Selbstbildung*) and self-determination (*Selbstbestimmung*). This right can be secured only in a legally regulated society; and it follows that the really "natural state" of man is a legal state.

It will be seen, therefore, that the impossibility of proving the existence and validity of a fundamental legal norm, either logically or empirically, does not concern Nelson at all. The existence and necessity of law is assumed as an axiom; and the criterion of its validity is to be drawn from the purpose or goal (*Endziel*) for which it exists. The science of law becomes, to a great extent, a sociological interpretation.

Nelson's fundamental legal norm, the *Rechtsgesetz*, postulates a social duty for the statesman, law-giver, and judge; and it commands that their acts be commensurate with such duty. Since this postulate holds good, regardless of time, place, or occasion, it constitutes a universal law, and is therefore a *Naturrechtssatz*. It, however, is not a Kodex of unchangeable law; it implies, in fact, the very opposite idea. Only the form of this fundamental "law of laws" is universal. In the application of its content (*Inhalt*), namely, "the principle of personal equality," all qualities of immutability cease to exist, inasmuch as this principle implies the positive limitation of individual freedom in order that the equal right of every person to self-determination be secured. Here is where positive law and coercive government come into the service of *Naturrecht;* and

[3] "Die Richtigkeit einer rechtlichen Entscheidung hängt von der Bildung des Urteilenden ab." Nelson, *Theorie D. wahr. Interesses*, S. 409.

their fundamental purpose is to make secure this equal right to self-development. Limitation is the keynote. It therefore follows that, under certain conditions, more freedom may be allowed to individuals than under others, and the right of self-determination still be preserved. A *laissez-faire* policy may have been right under one set of conditions; it may not have interfered with the equal right to self-development at all; in fact, it may have been synonymous with such right. Under a new set of social-economic conditions, however, the policy may be all wrong. Limitation may now be needed; again, that the right to self-determination may be secured. Always *Gleichheit*, in the sense just described, and not an absolute *Freiheit*, is the watchword in Nelson's legal philosophy.

Another feature of that legal philosophy is the high regard it entertains for positive law. If natural law postulates the necessity of limitation of individual freedom so that the equal right of individuals to self-development may abide, positive law is absolutely necessary; otherwise, Nelson realizes that his *Naturrechtssatz* would be meaningless.[4] Men cannot be forced to be ethical. Morality is concerned with the relation of the will of the individual to his action. Man's action must be voluntary to be ethical; but it need not be voluntary to be legal. He can be compelled to render at least outward obedience. This is all that the *Rechtsgesetz* requires, and all that the "principle of personal equality" requires.

Force is necessary to give law its objectivity, to give it results; and Nelson is tremendously interested in results. His social ideal of a legally regulated society must be established. This does not negate the fact that law is always law, in and of itself (*an und für sich*); but, because the *Rechtsgesetz* is not a categorical imperative, and because individuals do not voluntarily (*von sich aus*) limit themselves, Nelson realizes clearly that the very purpose for which his fundamental legal postulate stands will be absolutely meaningless unless positive law, backed up by the force of the state, gives it meaning. Nelson is not afraid of force, as we shall see later when we come to the implications of his philosophy for political theory. His doctrine is that, given a consciousness of the essence and purpose of law, as expressed in his "principle of personal equality," those in authority must be allowed to use all force necessary to bring about the desired end.[5] It is not coercion that Nelson fears,

[4] Nelson, *System der Philosophischen Rechtslehre und Politik* (Leipzig, 1924), S. 115.

it is arbitrary will; and only law consciousness on the part of those in authority will prevent the abuse of authority. There would be force even in anarchy, says Nelson. Therefore, it is infinitely better to have force and legal regulation, even if the attendant danger of abuse of authority necessarily exists.

Another principle of the legal philosophy of Nelson, and one that is often misinterpreted because it is not construed in the light of his essential concept of law, is that of the recognizability of law. To be valid law, it must be able to be recognized (*anerkennt*) as valid law. Two important points must be stressed in this connection. In the first place, the fact that it is so recognized by the people does not make it valid law, and, *mutatis mutandis*, the fact that it is not recognized by the people as valid law does not mean that it is not valid.[6] The real implication of this principle of recognizability is clear only if both possibilities are taken into account. To take an illustration from American public law: Let the question be raised, Was the Eighteenth Amendment valid law? Nelson's answer would be: The Eighteenth Amendment was valid law if it was necessary to secure the equal right of reasonable beings to self-determination. To determine whether or not it was so necessary, Nelson would apply his so-called method of "weighing the interests." If the Amendment had this quality of recognizability (and it is the judge's business to decide whether it did so), then it was valid law, regardless of whether it was accepted as such.

What does Nelson mean by "weighing the interests"? The principle finds its expression concretely when the referee or judge, who is doing the "weighing" of two conflicting interests, completely ignores the individuals whose interests conflict and combines the two conflicting interests in his own person, making his decision on the basis of the interest which he himself has in the object (*Gegenstand*) of law as a whole. The judge is particularly interested in the existence of *ein rechtlicher Zustand* in which the right of every individual to reasonable self-determination is secured, and so is each of the two individuals whose interests are in conflict. They, however, cannot objectively decide the issue; and it, therefore, remains for the judge to proceed according to the method just mentioned.

[5] This is by no means the same justification of force as that found in the *Machtphilosophie* of the Neo-Hegelian Fritz Berolzheimer, for example. It is not force justified by a *Geistsgeschichte* philosophy; it is force justified and sanctioned by "natural law" itself.

[6] Nelson, *Kritik der praktischen Vernunft* (Leipzig, 1917), S. 162.

As already stated, Nelson is quite willing to admit that the referee's viewpoint will rest on a more or less subjective basis; but, if the latter is fully conscious of the object of law as such, his decision will make for *ein rechtlicher Zustand.*

The question remains to be asked: Has Nelson completed the building which Radbruch claims Stammler "left unfinished"?[7] Do Nelson's postulates, as Gysin says of those of Fries and Stammler, still remain only postulates?[8] Has Nelson broken through the dualism which Breuer claims runs through the whole of the Stammlerian system;[9] and has he, therefore, bridged the gap between the purely formal part of his legal philosophy and the facts of social life? Certainly this is the question on the answer to which every philosophic legal system must be judged.

After carefully examining Nelson's different types of cases in which individual interests come into conflict, and the procedure by which he applies the content of his fundamental legal norm (*das Rechtsgesetzesinhalt*) to their settlement, one is inevitably forced to the conclusion that Nelson has gone far beyond any of his Neo-Kantian predecessors in the application of standards of legal justice to the solution of actual problems of jurisprudence. Professor Pound has styled Kohler's so-called Neo-Hegelian legal philosophy an "engineering interpretation," thereby implying its applicability to actual problems of law. Subjective as may be the basis of Nelson's fundamental formal norm (*Rechtsgesetz*), its content, as expressed in his "principle of personal equality," would seem to have every whit as much basis in the empirical facts of social life as does Kohler's general thesis of *Kulturrechtsgeschichte.* Nelson, undoubtedly, has a philosophy of law. Whether he has an answer, which may or may not satisfy all types of situations, may be seen in the many examples in which he shows the application of his criterion to such cases. Granting the subjective basis of Nelson's assumption that law is a necessary limitation (*Beschränkung*) of individual freedom, it is certainly difficult to see how Kohler's assumption of *Kulturperioden,* as well as the function he assigns to law in the realization of the goal of his *Kulturgeschichte,* are any less subjective. It is still more difficult to see how his criteria are

[7] Gustav Radbruch, *Rechtsphilosophie* (Leipzig, 1933), S. 15.

[8] Arnold Gysin, *Die Lehre vom Naturrecht bei Leonard Nelson* (Berlin-Grünewald, 1924), S. 34–38.

[9] Issac Breuer, *Der Rechtsbegriff auf Grundlage der Stammlerschen Rechtsphilosophie* (Berlin, 1912), S. 93.

any more applicable to actual problems than are those of Nelson.

Nelson's concept of the purpose of law is a universal concept. This universality once established, it becomes clear that Nelson's idea of law is not based on a *Rechtsgefühlpsychologie* growing out of a race (*Rasse*), or a Kultur theory. With such ideas as those of the "Hitler Code" Commission,[10] Nelson's legal philosophy has no patience. They lack all the necessary elements of universality. They constitute a "thinking with the blood" philosophy. That they are extremely dangerous is seen just as clearly by certain Neo-Hegelians[11] as by true Neo-Kantians. *Rechtsphilosophie* must, after all, be entitled to the name *Philosophie*; and it is extremely difficult to find a theory which assigns a higher place to this discipline than does the legal theory of Leonard Nelson.

II. POLITICAL IMPLICATIONS OF NELSON'S THEORY

The general opinion that the Neo-Kantians, as opposed to the Neo-Hegelians, minimize the importance of the state to a point where it ceases to have practically any meaning needs considerable modification in the case of Nelson. The legal and political philosophy of Nelson must always be considered as a whole. It is only then that it is safe to venture an interpretation of any of his ideas as applied to the common political and legal institutions of men. If this is done, the inconsistencies which appear in Kant as we proceed from the purely formal part of his philosophy to his more practical ideas, and which at first sight appear in Nelson, will disappear. Kant was, on the one hand, the Königsberg philosopher and, on the other, the professor in the Prussian state university; and even the Old Master had difficulty in reconciling these two positions. Nelson lived through the glorious days of the Empire: he saw the Weimar Republic established, and he lived to see a large part of the decline of German Social Democracy, and with it the institutions set up by the constitution of August 11, 1919. Kant shared with Hobbes one weakness, a psychological weakness—fear. Certainly, Nelson, who during the heyday of 1917 wrote with so much severity of the men responsible for what he called "*die internationale Anarchie*," cannot be said to have lacked courage.

It is significant indeed that the few criticisms which have ap-

[10] See Helmuth Nicolai, *Die rassengesetzliche Rechtslehre; Grundzüge der nationalsozialistischen Rechtsphilosophie* (1932). Dr. Nicolai was chairman of the commission.

[11] Fritz Berolzheimer, *Die Gefahren einer Gefühlsjurisprudenz in der Gegenwart* (1911), *passim*.

peared in German political and legal literature (and to date, if we except a few references in more general works, none have appeared in English), are criticisms directed almost entirely at Nelson's epistemology. None accuse him of inconsistency,[12] although it is difficult to reconcile some of the scattered and inadequate statements that have appeared in one or two American works that give Nelson any mention at all.[13]

Nelson is a Neo-Kantian: and, as such, he believes in the existence of criteria whereby the validity of positive legal and political acts may be judged. The weakness of the epistemological basis of his general norms has been pointed out. He admits this without question.[14] The heart of the matter, however, does not lie here. The real question is: Does he bridge the gap between philosophical norms and the facts of social life?[15] It is submitted that he does in a far more satisfactory manner than any of his contemporaries, whether Neo-Kantian or Neo-Hegelian.

Nelson is a believer in natural law, in the sense just pointed out; but, unlike Kant, the theory of a "state of nature" (*Naturzustand*) has no significance for him. The ideas of social contract, and the obligation of contracts, as these ideas were drawn from the philosophy of man in a "state of nature," are to Nelson absolutely meaningless. The "state of nature" was not his starting point. Instead, his point of departure, as has several times been noted, was his concept of law as necessary limitation (*Beschränkung*) of individual freedom. "Natural law" is, therefore, "necessary"—necessary for the achievement of the only "natural" social condition in which reasonable beings can be conceived as enjoying an equal right to the opportunity of self-determination. In other words, Nelson's "state of nature" would be the very opposite of the traditional concept; it is a state of legal regulation.

The fact of the matter is that, far from absorbing the state in a

[12] Eric Kaufmann, the Neo-Hegelian arch-critic of Neo-Kantianism, does not mention Nelson at all, while Gustav Radbruch, the father of Relativism in legal philosophy, refers to Nelson thus: "Und das Vernunftrecht der Aufklärung feiert in Anlehnung an Kant und Fries seine Auferstehung in einem durch seinem unentwegten Vernunftglauben eindrucks vollem System." *Rechtsphilosophie*, S. 26.

[13] See, for example, Rupert Emerson, *State and Sovereignty in Modern Germany* (Cambridge, 1930), pp. 180–181.

[14] Nelson, *Die Kritik der Praktischen Vernungt*, S. 362.

[15] Radbruch saw this when he pointed out that Stammler's postulates, even though they might be basically sound epistemologically, were invalid as to their application to particular cases or problems.

system of legal norms,[16] Nelson's ideal state becomes a very real social condition with real factual content. He certainly gives it infinitely more comprehensible content than can possibly be drawn from Kohler's concept of *Kulturperioden*. It is a state of the legal limitation of individual freedom in order that the equal right of every individual to self-development may be secured. This is not absolute equality; it is personal equality only in this definitive and limited sense. This is the condition which it is the business of law and government to achieve; and for the assistance of such positive regulation, Nelson offers his yardstick (*Masstab*) of the "true interest." Without understanding his concept of an ideal state as *ein rechtlicher Zustand* of society, or *eine Gesellschaft vernünftiger Menschen*, it is utterly impossible to understand either his legal or his political philosophy. Viewed in this sense, it is impossible to tell where Nelson's *formal* political and legal philosophy leaves off and his *material* part begins. It is a whole; and it is far from being merely a system of norms such as Kelsen's *reine Rechtslehre*.

Nelson's state is always the people and the government, coöperating in a legally regulated society; it merely becomes more "ideal" as such coöperation becomes more and more perfected and individuals become more and more law-conscious. This is the goal (*das Endziel*); and the very idea of a goal suggests at once the evolutionary element in Nelson's political philosophy. It is not something static; it is, in a very real sense, a growing organism, but an organism whose growth is controlled by a universal concept of law, not by the workings of the capricious spirit (*Geist*) of a particular people.

More ink has been spilled over the familiar concept of sovereignty than over any other concept in political and legal philosophy, unless it be the concept of the state itself; and in the treatment of the concept of sovereignty the Germans have certainly not been idle. It is fitting at this point that the implications of Nelson's philosophy in regard to this concept be considered. Here, too, Nelson has, for the most part, not received adequate attention. The reason for this, again, is the fact that his references to the subject of sovereignty are not interpreted in the light of his general philosophy. The key to his theory of sovereignty is to be found only in the principle that *Sollensätze* can never be derived from *Seinsur-*

[16] This is exactly what Hans Kelsen does when he reduces the state to a mere "*Zurechnungspunkt*," or imputation point.

teile. The principle of sovereignty is, according to Nelson, just as much a principle of what ought to be as is any other legal principle. This means nothing more nor less than that sovereignty, if it is to be legal in the Nelsonian sense, must account for a willingness on the part of those who obey the so-called sovereign authority; and sovereignty must never be "highest power"; it must always be "highest authority."

Unfortunately, as Nelson explains in his criticism of Jellinek, it is the bare analytical definition of sovereignty that has formed the starting point for most of the discussions on that subject. Definitions, according to Nelson, are merely analytical judgments of what exists (*Analytische Seinsurteile*); and as a criterion of the validity of a principle such as sovereignty they are absolutely futile.[17] As a contemporary American student of public law shows, a "working theory of sovereignty" must be one of legal sovereignty, if it is to have any meaning at all.[18] This is the philosophic foundation of Nelson's attack on the popular concept of sovereignty; and it is in this sense that the statement of a contemporary American student of German public law is at all accurate.[19]

Nelson's sovereignty is a sovereignty of law; and, if his concept of law as a necessary limitation of individual action is clear, then his theory of sovereignty begins to have real meaning. Law, if it is real law, says Nelson, exists, and has validity, in and of itself; but it has no objectivity, so far as human relations are concerned, until it has enlisted the aid of a power which is able to enforce it. This power does not create law; it has no sovereign rights, but only a sovereign duty—the duty of assisting in the realization of the end

[17] "Den eigentlichen Mittelpunkt dieser Lehre (Jellineks), um den sich alles übrige dreht, bildet die Erörterung des Begriffs der Souveranität. Diese Tatsache verdient schon an sich, nämlich unter methodischem Gesichtspunkt, unsere Aufmerksamkeit. Von irgen welcher Wichtigkeit für die Ergebnisse einer juristischen Untersuchung kann unmittelbar s t e t s n u r e i n R e c h t s a t z n i e m a l s a b e r e i n b l o s s e r B e g r i f f s e i n. Aus einem Begriff folgen allemal nur leere logische Identitäten; um zu einer Behauptung von juristischen Inhalt zu gelangen, musz man von einer anderen Behauptung ausgehen, die sich ihrerseits nicht aus einem bloszen Begriffe herausziehen läszt." Nelson, *Die Rechtswissenschaft ohne Recht*, S. 59.

[18] John Dickinson, "A Working Theory of Sovereignty," *Political Science Quarterly*, Vol. 42, No. 1; Vol. 43, No. 1.

[19] Says Emerson: "In the struggle against it [sovereignty] he [Kelsen] was joined by Leonard Nelson, who professed himself quite ready to see the concept banished wholly from the sphere of jurisprudence and political thought." *Op. cit.*, p. 179.

and purpose of law, the duty of establishing *ein rechtlicher Zustand* of society. Whatever acts this power performs are legal and valid, so long as they make for the achievement of the end and purpose for which law, by its very essence, exists.

This power, or *Zwingsorganisation*, which law calls into its service, is the government. That Nelson assigns to government a high responsibility must be quite clear; its duty is to give reality to the philosophical postulate of the absolute necessity of a legally regulated condition of society,[20] a condition necessary because man is a reasonable being with one permanent and true interest (*das wahre Interesse*)—the equal right to self-development according to his natural endowments. Nelson realizes, of course, that government may get out of hand, so far as the commands of his postulate are concerned. It may, in fact, become despotic. Nevertheless, since force is necessary to make law effective, this "highest power" cannot, and dare not, be politically limited.[21] There are no political guarantees against the abuse of power by the government, in Nelson's system, save the moral check of the consciousness of law. If this sense of legal duty is lacking, government is based on will;[22] it has ceased to be a government of laws.

The theory of popular sovereignty enters Nelson's system in connection with his principle that law, to be valid, must have the quality of acceptability. The idea here is, of course, that if a positive enactment makes for the end for which law exists, it is reasonable and will be so recognized (*anerkannt*) and accepted by reasonable beings. But individuals do not necessarily limit their own individual freedom; and here again the fundamental necessity (*Notwendigkeit*) of such limitation (*Beschränkung*), which compels law to call coercive government into its service to make itself effective, leaves to the government the power of deciding, in a conflict between the state and the individual citizen, whether or not specific positive enactments make for such necessary limitation and are just and valid. It must, therefore, be quite obvious that the familiar concept of "popular sovereignty" has little meaning in Nelson's political and legal theory, if indeed, it has any real meaning in any.[23]

[20] Nelson, *System*, S. 175. [21] Nelson, *ibid.*, S. 70.

[22] Nelson, *Die Rechtswissenschaft ohne Recht*, S. 105.

[23] It is a well-known fact that it is typical of German political and legal theory to insist that sovereignty must be placed definitely in an organ. It is conceded that Gierke's *Genossenschaft* theory may be interpreted as being an exception.

The implications of Nelson's theory for the problem of the extent of governmental action must appear from what has preceded. The principle of equality (*Gleichheit*), in the sense of the equal right to self-determination, must prevail always; society must be a legally regulated condition for this reason. If, therefore, changes in social-economic conditions make inevitable the use of more governmental control, in order that every individual may enjoy his reasonable right to self-development and self-determination, such control is justified and valid. It must certainly be clear that this theory might lead to socialism of an extreme degree; it would, however, always be state socialism, never communism.

This leads us to consider briefly the implications of Nelson's legal and political philosophy for such concepts as democracy, socialism, and communism. The reference that has been made to Nelson's idea of "popular sovereignty" may have led to the inference that he does not favor democracy. To the particular form of state organization, Nelson is entirely indifferent, so long as law rules and positive enactments meet the criterion of the purpose or end for which law essentially exists—in other words, the criterion of reason. From this idea of the sovereignty of reasonable law, Nelson is led to his principle of leadership (*Führerschaftzprinzip*), the principle that only the wisest should rule,[24] as well as to his ideas on training for leadership,[25] and his ideas on education in general.[26] It is, however, not within the province of this study to go into an examination of Nelson's ideas on such matters as public opinion and education. Suffice it to state that Nelson has tremendous confidence in the value of public education as the means of, not only training leaders for the state, but also developing that spirit of law-consciousness, in the broadest sense of the term, a consciousness which will always act as a moral deterrent to any abuse of power by those in authority, as well as a moral force compelling individuals to a better coöperation with government in its fundamental duty.[27]

It must appear from the statements already made with reference to the extent of governmental function in Nelson's philosophy that socialism is no bugaboo for Nelson at all. The question must now

[24] Unfortunately, Nelson is not clear as to just how these are to be selected. Presumably, in the system of training for leadership, he suggests, they will naturally come to the fore.

[25] Nelson, *Demokratie and Führerschaft* (1920), S. 1–24.

[26] Nelson, *Erziehung und Führer* (1920), S. 1–32.

[27] Nelson, *Erziehung und Knechtsgeist* (1921), S. 1–57.

be raised: Does his *Prinzip der persönlichen Gleichheit*, even if it is not a positive rule for the determination of property, not necessitate a communistic determination of property relationships, or at least the public ownership of the means of production (*Produktionsmittel*)? The answer, according to Nelson, is that it does not. Nelson's *Rechtsideal* is the principle of personal equality, in the sense of every reasonable being's equal right to the opportunity of self-development and self-determination. Again, not individual freedom, but individual equality in the sense just mentioned, is the basis of Nelson's answer. Nelson takes the position that a reasonable being can develop and realize his true nature only through the use of things (*durch den Gebrauch von Sachen*).

There is, says Nelson, no natural right of private property, in the sense in which the philosophers of a "state of nature" spoke of it. But private property is necessary for the self-determination of the individual;[28] and communism, therefore, is irreconcilable with *das Prinzip der persönlichen Gleichheit*. The assumption that the right of private property is necessary for the complete self-determination of a reasonable being is, very significantly it would seem, closely connected by Nelson with the necessity of a positive limitation of individual freedom at the hands of the government; and the abolition of private property seems to Nelson to go hand in hand with the abolition of government—in other words, with anarchy.[29] The fundamental "natural law" principle, making necessary legal regulation to secure the individual's equal right to self-determination, therefore, rules out not only anarchy[30] but also the abolition of private property.

The preceding, then, are the main political implications of Nelson's philosophy. One fact, in conclusion, must appear clear, namely, the fact that Nelson is a true follower of Kant in one respect, and in one respect only, namely, in method. That the conclusions to which his fundamental postulate of law (*das Rechtsgesetz*) leads him are, for the most part, anything but Kantian,

[28] This is substantially the argument used by medieval philosophers following the revival of Aristotelian ethics and politics in Western Europe during the latter part of the twelfth century. It is, for example, essentially the argument of St. Thomas. [29] Nelson, *Die Kritik der praktischen Vernunft*, S. 642.

[30] Nelson argues that even under anarchy force would rule. Therefore, it is infinitely better to employ the regulation of individuals according to law, and thereby establish a social condition in which every one may enjoy his natural right to self-determination.

cannot be doubted. He has left the political implications of the natural law theories of the *Aufklärung* period far in the rear.

III. IMPLICATIONS FOR INTERNATIONAL LAW AND RELATIONS

In the very midst of the World War, Nelson lamented the fact that international relations had developed into *internationale Anarchie*, and the science of international law into *eine Rechtswissenschaft ohne Recht*. Nelson's legal philosophy is indeed extremely significant for the solution of the international problems of today. As a follower of Kant, it was inevitable that the ideas of the author of *Zum ewigen Frieden* should have an influence on Nelson. It is submitted, however, that in the application of his theory to the international field, Nelson goes far beyond the comparatively mild suggestions of the Old Master.

Just as in his *Staatsrechtslehre*, so also in his *Völkerrechtslehre*, Nelson attacks what he calls the "golden calf" of sovereignty. His attack, however, as pointed out in the preceding section, is aimed at the bare, analytical concept of sovereignty. To have any juristic meaning at all, says Nelson, sovereignty cannot be a mere *Seinsurteil;* it must always be a *Sollensurteil*. Law alone is sovereign; and law implies, by its very essence, the idea of the limitation of the spheres of freedom, whether of individuals or of states. Every society, national or international, must have as its ideal a condition of legal regulation (*ein rechtlicher Zustand*) in which each individual, citizen or state, enjoys the equal right to self-determination (*Selbstbestimmung*) in proportion to its natural capacity (*Fähigheit*). This is the fundamental natural law principle (*Naturrechtssetz*) which governs the validity of every positive human regulation. Without it, says Nelson, it is inconceivable that a society of reasonable beings can exist.

Law of this type is sovereign, according to Nelson; but while it exists and is valid in and of itself (*an und für sich*), it has no objective reality, so far as its end or purpose (*Endzweck*) is concerned, until it has enlisted force in its service. Just as, in the state, a government or *Zwingsorganisation* is called into the service of law, so likewise in the society of states a *Herrschermacht* must be set up, in order that the conflicting interest of individual states may be settled according to the "theory of the true interest" (*das wahre Interesse*), and the purpose of law be thus accomplished.

What is the nature of the international organization which Nel-

son would set up? His answer is that it is to have the nature of a *Staatenbund*, and not that of a *Bundesstaat*. It might seem, at first sight, that here Nelson is very mild indeed; but such is not the case when his concept of the former type of organization is clearly understood. He disagrees with Jellinek that a *Staatenbund* implies that there can be no central ruling power apart from that of the individual states;[31] and he criticizes Oppenheim for maintaining, on the one hand, that the concept of law is entirely different from that of force,[32] and, on the other, that in a *Staatengemeinschaft* there can be no force exercised by any central executive power.[33] Law is sovereign in the society of states, as well as in any individual state; and the international organization which speaks for this sovereign can and must be endowed with the power to use force upon the members of this society. Even the popular concept of state sovereignty will not be interfered with, unless it be conceived as the right of a state to do as it chooses. This right, of course, Nelson denies. It is contrary to the very idea of law,[34] and cannot be admitted as a juristic concept. As a matter of fact, sovereignty in the ordinary sense means nothing, says Nelson, once the state is not strong enough to do as it pleases. Its sovereignty, or its independence, can be guaranteed a state only by international law, with the power of an international government back of it. Its sovereignty, or independence, then becomes a juristic fact. Far from meaning the destruction of the independence of a state, the erection of an international political commonwealth would mean the guarantee of its independence,[35] so long as the "principle of equality" and the criterion of "the true interest" would justify its independence or self-determination (*Selbstbestimmung*).

[31] "Definiert man freilich den Staatenbund als eine Verbindung von Staaten, die die Souveranität der Gliedstaaten nicht mindert (Jellinek, *Allgemeine Staatslehre*, 762), so ist ein mit Herrschermacht versehener Staatenbund allerdings unmöglich. Die Möglichkeit einer mit eigener Herscherrmacht versehenen Staatenverbindung, die doch kein Bundesstaat ist, läszt sich aber auch durch diese Definition nicht aus der Welt schaffen. Nelson, *Die Rechtswissenschaft ohne Recht* (Leipzig, 1917), S. 75.

[32] Nelson, *ibid.*, p. 107.

[33] "Um so sehr musz es Wunder nehmen, dasz Oppenheim, obgleich alle seine Bestrebungen darauf gerichtet sind, seinen Lesern die Dringlichkeit einer die Zukunft des Völkerrechts sichernden Organisation der Staatengemeinschaft vor Augen zu führen, die Ausübung eines exekutorishen Zwanges von seiten einer Zentral gewalt in der Staatengemeinschaft in alle Ewigkeit ausgeschlossen lassen will." Nelson, *ibid.*, S. 108.

[34] Nelson, *ibid.*, S. 60.

[35] Nelson, *Die Rechtswissenschaft ohne Recht*, S. 113.

It is sometimes alleged, says Nelson with Liszt particularly in mind, that the *genossenschaftlicher Charakter* of international law renders impossible the establishment of a law binding upon the states in a *Staatengemeinschaft*, save as each state through its own will enforces it. This Nelson denies.[36] If international law is law at all, it implies a limitation on the freedom of each individual state in the society of states, regardless of whether it is recognized (*anerkennt*) by that state or not. Limitation of freedom is the very essence of law. The only requirement, so far as the acceptance of a law by any member state is concerned, is that such law have the quality of acceptability as valid law, i.e., that the law make for the establishment of the "principle of equality" among the states by securing to each state the right to enjoy an equal opportunity for self-determination and self-development, in proportion to its natural capacity. Moreover, the variation in the legal systems of the different states does not prove, according to Nelson, that any one of them is out of harmony with the "natural law" principle just mentioned. This *Naturrechtssatz* simply demands the setting up of a condition of legal regulation in which the right just mentioned is guaranteed; it is not a norm of unchangeable law. It postulates, in fact, the very opposite. Law must account for variation in time, place, and circumstance; and this is exactly what causes the existing variation in the different legal systems.

Nelson also attacks Liszt's argument that, even though a state is free to leave the *Völkerrechtsgemeinschaft*, since the latter is but a *Staatenverein*, it is bound to those agreements to which it voluntarily gave its consent while a member of the union. This is plain foolishness to Nelson. Certainly the state is bound, says he, but not because of any prior expression of its will. It exercised its own will again when it left the union, and by so doing it plainly expressed the fact that its will was not to be bound by any rule or regulation of the union.[37] Clearly Nelson shows the inconsistency of the theory

[36] "Der Schluss auf den genossenschaftlichen Charakter des Völkerrechts ist in der Tat nur eine Inkonsequenz. Wäre wirklich mit der Verwerfung des herrschaftlichen Prinzips' (Unterwerfung unter einen fremden Willen) schon das Souveranitätsprinzip (Unbeschränktheit des eigenen Willen) gegeben, so würde folgerichtig nicht sowohl auf den genossenschaftlichen Charakter der Völkerrechtsgemeinschaft, als vielmehr auf die Nichtigkeit des angeblichen Völkerrechts, nämlich, auf die Unmöglichkeit einer rechtlichen Verbindung der Staaten zu schlieszen sein." Nelson, *ibid.*, S. 92.

[37] "Etwas sein frühere Wille, sie zu befolgen, den er, wir sollen es voraussetzen, zur Zeit seines freiwilligen Eintritts in den Verein hatte? Aber wie kann sein früherer

that a state can be bound only by its own will, and the holdings just pointed out. Not the state's will is the *Verpflichtsgrund* of the state; it is bound whether it wills or not. The basis of its obligation is the fact that every state is by nature entitled to an equal right to self-determination in accordance with its *Fähigkeit*. This postulates the absolute necessity of law, making this right secure. Therefore, law comes before the state, is above any state, and above any society of states; and the basis of the state's obligation, whether in or out of the union, is law, not its own particular will.

Huber takes the position that the principle of the equality of states means equality in representation in any international organization that may be set up. This view Nelson attacks. He agrees with Huber that actual (*tatsächliche*) and legal (*rechtliche*) equality are the same; but he does not see how Huber can come to the conclusion that, both in practice and theory, the principle of the equality of states is a positive public international law principle.[38] Nelson's *Prinzip der persönlichen Gleichheit* in international public law means nothing more than the equal right to self-determination in accordance with "the true interest." Because the representation of states in an international organization can have juristic meaning only in so far as it serves the preservation of the legal, not the actual, equality of states, it, according to Nelson, departs from its true meaning when it is turned into a bare principle of equal representation.[39]

The essence of law implies the necessity of limitation, that a condition may exist in which conflicting interests may be "weighed" according to their true worth—their worth from the viewpoint of the development of life as a whole (*das Wert am ganzen Leben*). Applied to international law, this principle means that the weight of an interest must be determined from the viewpoint of civilization itself. This leads Nelson to the conclusion that not even the right

Wille zu Befolgung der Satzungen ihn binden, auch jetzt noch das gleiche zu wollen." Nelson, *ibid.*, S. 94.

[38] Professor Dickinson comes to the conclusion that present-day practice does not agree with Huber's claim. E. D. Dickinson, *The Equality of States in International Law* (1920), *passim*.

[39] "Während also die Vertretung der Staaten in den völkerrechtlichen Organisation ihren rechtlichen Sinn nur darin finden kann, dasz sie der Sicherung der recht lichen Gleichheit der Staaten dient, wird sie ihrer r e c h t l i c h e n B e s t i m m u n g gerade entfremdet, wenn man das Prinzip der Glechheit der Staaten zu einem b l o s z e n R e p r ä s e n t a t i o n s p r i n z i p macht." Nelson, *ibid.*, S. 98.

to an ultimate decision where its own life interest is concerned can be reserved to the individual state. Because of the ultimate purpose of law, there can be no interest justifying the state's breach of law.[40] Not even its continued existence as a state can be such an interest, for it can have no interest apart from its members (citizens),[41] and for them, in other words, its discontinuance as a state will mean only a change in government.

The preceding are the main implications of Nelson's legal philosophy for international public law and international relations. As in the case of Nelson's political theory, his ideas here are extremely significant as a contribution to the possible solution of present-day international problems. Law is needed in order that states may live together in a *Weltgemeinschaft vernünftiger Wesen*. To gain objectivity, law must needs call into its service some sort of a *Zwingsorganisation*. Just how far Nelson would go here is difficult to state; but always law must prevail. This "force-organization" has no sovereign rights; it has only the sovereign duty of maintaining *ein rechtlicher Zustand* in the society of states. Nevertheless, to accomplish its function, it must be politically illimitable; and the only guarantee against a possible abuse of its authority is the moral force of law-consciousness. Its business is to decide between conflicting interests according to the principle of the "true interest" of the parties. Put briefly, Nelson sees the solution of the problem of international conflicts in a federal union of states with a central authority (*Zentralgewalt*) strong enough to enforce the prescripts of law. Any condition short of this will present *internationale Anarchie;* and international law would indeed be a *Rechtswissenschaft ohne Recht*.

[40] Nelson, *System der philosophischen Rechtslehre*, S. 523.

[41] This is clearly not the traditional German viewpoint, and it demonstrates how far Nelson, as a Neo-Kantian, is removed from the doctrine of Neo-Hegelianism.

DEMOCRATIC PLANNING IN AGRICULTURE, II*

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V. THE DISTRIBUTION OF REPRESENTATION ON PLANNING COMMITTEES

The B.A.E.-Extension Service views quoted above stress the importance of securing on planning committees representatives of all economic, social, racial, and geographic groups found in the county. To what extent are such groups represented on planning committees at present?

A wide geographic distribution of representation is, of course, more easily secured than any other kind of distribution. Geographic boundaries between groups are easily recognized, and it is usually taken for granted that distinct areas should be separately represented. A distribution based on type-of-farming areas will, of course, mean representation of geographic areas. And geographic distribution will ordinarily achieve some degree of distribution among social, economic, nationality, or other groups. In practically all counties, the county committee includes at least one member from each township, other civil district, or type-of-farming area in the county. Ordinarily this is achieved by making the chairman of each community committee, or other member selected by the community committee, also a member of the county committee. In a few cases where the county committee was set up first, a member from each township or district was made responsible for selecting the members of a community committee for his area.

But geographic separateness is of no importance except as geographic boundaries help to create some type of social boundaries. This seems to indicate once more the importance of sociological surveys for plotting communities and neighborhoods as the bases of more meaningful group representation than can be secured by following local unit lines that never were, or are no longer, the boundaries of actual communities.

It is difficult to generalize about the representation on planning committees of farmers of different economic levels. Most county agents will say that the planning committees in their counties are made up of "the leading farmers" or "leading farm men and

* The first instalment of this article appeared in the April issue.

women." Some will say that all economic levels are represented; others that "the leading farmers" are naturally the more successful and prosperous farmers. There is no reason why a group of low-income farmers should not select a higher-income farmer to represent them; consequently, the absence of low-income farmers from elective committees need not mean lop-sided representation. On the other hand, we may regard with greater suspicion the absence of low-income farmers from an appointed committee, since in this case poorer farmers have not been consulted about how their interests are to be guarded. It seems fairly certain that on the appointed committees of the Southern states representation does not often dip into the lower economic levels. In several Southern states,[28] B.A.E. and Extension leaders have stressed the importance of including F.S.A. clients or small tenants, and county committees in these states usually include one or several committeemen from lower income groups. But it is difficult to oppose the prevalent assumption that small tenants, and particularly sharecroppers, are not competent to recognize and protect their own interests, and that their affairs are best left in the hands of others.[29] A planning organizer in one Southern state expressed the view that in his state perhaps twenty per cent of the farmers were represented on County Planning Committees. He believed also that committees representing these substantial farmers cannot represent small farmers as well, because the problems of the two groups are so completely different. It may be that sufficient digging beneath the surface would reveal similar situations in other parts of the country. A very detailed study of the personnel of numerous selected county committees, and the relating of the findings to the social-economic composition of the counties, would seem to be the only basis for accurate generalizations about the representation of economic groups. This is one of many types of detailed study that might profitably be made in connection with the Land Use Planning program.

[28] E.g., Mississippi and Alabama.

[29] Johnson, Embree, and Alexander quote the following summary from a study of "The A.A.A. and the Cropper" by Hoffsom: " . . . The cropper is looked upon as a dependent person, there are extreme but not uncommon views regarding him as a class apart, incapable of ever achieving but a modicum of self-direction. . . . There is a considerable feeling among landlords that anything which disturbs the cropper is undesirable. Forty per cent of the [800 landlords interviewed in 1934] stated, for example, that they were opposed to the granting of relief to these people because of its demoralizing effect upon them. . . . " *Op. cit.*, pp. 58–59.

In sixteen of the twenty-two states studied, women were serving on some or all of the county committees. Usually the women are only a small percentage of the whole membership; occasionally a fixed proportion of men and women is established. In Caswell county, North Carolina, for example, four men and three women serve on each community committee, and in North Carolina two men and one woman ordinarily represent each community on the county committee. In Texas, there is frequently an equal number of men and women on the county committee, but this is exceptional. In counties in which a home demonstration agent has been working and in which Homemakers' Clubs have been organized, the inclusion of women on the planning committees is usually taken for granted. Practically all county agents will agree that some women should be included. In counties and states where women are not included, the principal reason seems to be not so much prejudice against having women work on the committees as the fact that the regular extension program in these counties or states has not drawn women into active participation to the same extent as elsewhere.

The cotton belt, cutting a swath three hundred miles wide from the Carolinas to western Texas, is the most densely populated farm area in the country. And it is, of course, the area of densest Negro population. In South Carolina, Georgia, and Alabama, about forty per cent of the population is Negro; in Mississippi, Negro population goes above fifty per cent; in sections of other states, the percentage of Negro population is often even higher. But rural Negroes in the South do not participate in managing the political machinery through which they are governed. Nor do they participate, except in very exceptional cases, in County Land Use Planning. In no Southern state is there any attempt to secure systematic representation of Negro farmers. There are, however, isolated instances of attempts to secure expression of Negro views. In Mississippi, for example, Negro county agents and Negro vocational teachers may be invited to attend meetings of planning committees. The most extensive representation of Negroes appeared to be in Jones county, Mississippi. Here, Negroes are included in several sub-committees of the county committee, and one sub-committee for Negro population is made up entirely of Negroes, including the Negro county agent, the Negro home agent, and five Negro teachers. These committee members are expected to take committee findings back to separately organized Negro community meetings for discussion.

The Negro population of this county is somewhere between twenty and thirty per cent. The county agent explained that, since the welfare of colored farmers was bound to affect the welfare of the county as a whole, Negroes as well as whites should be brought into active coöperation in the planning process. In Covington county, Mississippi, the county agent reported one colored farmer on one community committee. He reported also the organization of one colored community neighborhood, to which presumably the findings of the County Planning Committee will be taken. In Guilford county, North Carolina, a Negro community mapped land-use areas in its section of the county, and its findings were coördinated with the findings of the white county committee. In Caswell county, North Carolina, the planning leaders took a two-day short course on the problems and progress of Land Use Planning in the county to Negro as well as white communities.[30] Negro participation was reported also for Jefferson and Madison counties, Florida, and for Colorado county, Texas. There may be some Negro participation in other counties that the writer has missed, but it is safe to say that such cases are not numerous.

To questions about Negro representation, there was an almost unanimous reply that "It is a problem that we haven't worked out," or "It is a problem that must be worked out." An important Negro administrative official of the Extension Service went no further than white leaders. He said merely that "some way must be worked out" for Negro participation, and added that it must be worked out in the South without Northern pressure. After arriving at the stage of recognizing a "problem," it is difficult to go much further. If deeply ingrained and socially approved prejudice forbids white men to sit in meetings with black men to discuss common problems, the alternative would seem to be to set up a separate parallel organization for Negroes. This is the approach that has been followed in Negro agricultural extension work.[31] But the determination to maintain white supremacy may stand in the way of separate organization as well. One planning organizer in a cotton-belt state explained that a principal Southern objection to

[30] About fifty per cent of the population of the county is colored. Sixty-five and seven-tenths per cent of farm operators are tenants; fifty-four per cent of the tenants are sharecroppers; about fifty per cent of the tenants are Negroes.

[31] In *The County Agent*, (Chicago, 1939), Chap. 8, Gladys Baker discusses some of the difficulties that colored Extension workers face.

the separate organization of Negroes for Land Use Planning was concern lest such organizations get out of control and be "misused." He cited the sharecroppers' union strikes as an example of what organization might lead to. The only conclusion that seems to appear from an examination of Negro participation in Land Use Planning is the rather trite one that no new administrative procedure can be expected to break down deep-rooted racial prejudice over night, particularly when such prejudice is part and parcel of a social-economic organization that rests upon a precarious one-crop plantation system. The occasional lapses in the system of exclusion suggest that this is another phase of Land Use Planning that merits close and continuous study.

Specific representation of the Farm Bureau, the Farmers' Union, or the Grange was reported in January, 1940, for only about four per cent of the whole number of County Planning Committees organized.[32] Other farm organizations are represented occasionally. In Allegany county, Maryland, for example, the secretary of the Farm Bureau, the chairman of the legislative committee of the Farm Bureau, the manager of a dairy coöperative, the director of the county National Farm Loan Association, and the president of the County Council of Homemakers' Clubs are members of the county committee. The county committee of Seneca county, Ohio, includes the president of the Farm Bureau, a representative of the Grange, and a representative of a farmers' elevator organization. But the specific designation of representatives of organizations as committeemen is not common. State organizers and county agents usually fear that this type of representation will tend to weaken planning in the common interest by centering too much attention upon particularized interests. Consequently, when organization officers are appointed to committee membership, their appointment is usually explained as a recognition of their leadership generally rather than as a recognition of their rôle in a particular farm organization.

If one farm organization is especially strong, it may secure a share of committee representation entirely out of proportion to its membership. This is particularly true of the Farm Bureau, whose influence in some states depends not merely upon the size of its

[32] Forty-eight counties in thirteen states out of a total of 1,120 counties. Figures are taken from U.S.D.A., B.A.E. and Extension Service, "Report on the Progress of Land-Use Planning during 1939," p. 9.

membership but also upon the fact that it is the legally-recognized sponsor of extension work in the counties and its board the county agent's advisory board.[33] In Iowa, one of the two strongest Farm Bureau states, Bureau membership in 1939 was somewhat less than twenty per cent of the number of farmers in the state. Yet extension work in Iowa is directly tied to Farm Bureau organization.[34] Consequently, the county agent finds himself trying to serve two masters. As a tax-supported extension agent, he is expected to do educational work and to serve all the farmers of the county. But because of the close relation between extension work and the Bureau, he finds it advisable to take an interest in the commercial activities of the Bureau and to work for a larger Bureau membership.[35] Under such conditions, it is often difficult to get the coöpera-

[33] According to Gladys Baker, "The county agent in about fifteen states is legally responsible to the county farm bureau organization. In approximately eight states, where the county appropriation is mandatory, responsibility to the farm bureau almost entirely replaces responsibility to the county governing-board." *Op. cit.*, p. 135. The contribution of the federal government and of the state is automatic if local conditions for extension work are fulfilled. In the majority of states, this leaves the appointment of a county agent, the size of his salary and operating budget, and even the suspension of extension work, up to the county governing board, which controls county appropriations necessary to supplement federal and state appropriations. But if county appropriations are also made mandatory, and if extension work is made dependent upon Farm Bureau coöperation, the Bureau becomes the active controlling agency.

[34] The County Board of Supervisors must appropriate funds for extension work when a county association is organized with 200 members and pledges of dues amounting to $1,000. The county Farm Bureau determines the county agent's salary beyond a minimum amount fixed by federal and state funds, and can get rid of a county agent by simply withholding county funds. The Farm Bureau is a commercial as well as an educational organization, and its state and national federations are active legislative lobbyists.

[35] Cf. Baker, *op. cit.*, pp. 136–137. A Land Use Planning report from Adair county Ia., summarizes as follows: " . . . On the one hand, in carrying on a broad educational program, [the county agent] states that his services are tax supported and, therefore, open to every farmer; on the other hand, when he puts on a Farm Bureau membership drive, prospects want promises of exclusive services and benefits. Relations between the Extension Service and the Farm Bureau have been unusually harmonious; however, as each organization expands its separate programs and goals, the present official relationship in the counties lends itself to conflicts and misunderstandings. The Farm Bureau Board, as it undertakes a wider variety of non-educational activities, is likely to think that it is unduly dominated by extension officials and is forced to emphasize educational programs, slighting other Farm Bureau activities. . . . On the other hand, workers in the Extension Service are almost forced to engage in non-educational activities to maintain harmonious relationships." Adair County Agricultural Planning Committee, "Annual Report of Unified Program," May 17, 1940 (mimeo.), p. 29. In 1936–39, Farm Bureau contributions to

tion of a county agent in a time-consuming program of planning that may seem to have only academic importance and to promise only distant and uncertain results. In the second place, County Land Use Planning Committees are appointed in Iowa by the county agent in consultation with the Farm Bureau Board. There is a tendency, natural in view of the relations described, for the Farm Bureau to dominate the planning committees, and this may also mean a tendency for the more prosperous farmers to dominate.

In Illinois, there is an even closer relationship between the Farm Bureau and county extension work. The county Farm Bureau furnishes all the local funds for extension work, and a Farm Bureau Board, elected by the Bureau membership, selects and dismisses the county agent, subject to the formal approval of the state Extension Service.[36] Farm Bureau control appears very clearly in the procedure for organizing Land Use Planning. The decision to coöperate in the program is made by the county agent and his advisory (Farm Bureau) board. A committee consisting of the county agent, the home agent, the Farm Bureau president, and the Farm Bureau home adviser then selects the members of a County Planning Committee, and the Farm Bureau Board approves the selection. In the one county where community committees were set up, members of such committees were chosen by the Farm Bureau Board. The state organization of the Bureau, the Illinois Agricultural Association, is extremely powerful,[37] and in general the state Extension Service exercises a minimum of control and a maximum of diplomacy in dealing with the work of county agents. It is likely that Bureau control and fear of encroachments upon that control account for the fact that Illinois is one of the states in which local suspicion of the whole Land Use Planning program has been strongest.

Iowa and Illinois are two states in which the strength of the Bureau has been most obviously reflected in the methods of organizing planning committees and in their composition.[38] In some other states, the Bureau has been involved in instituting the planning program and a large percentage of committeemen are Bureau mem-

extension work in Adair county amounted to 13.5 per cent of the total amount spent. *Ibid.*, p. 30.

[36] Cf. Baker, *op. cit.*, pp. 139–141.

[37] It has a membership of 74,000, and is the largest purchasing coöperative in the United States.

[38] I omit consideration of New York because there local representative committees are not an important part of the planning organization.

bers, but this does not seem to have interfered with effective planning activity.[39] In North Dakota, the Farmers' Union, with a membership of about eighteen per cent of the total number of farmers, is the strongest single farmer organization; but the Bureau is also strong in the state, and neither can be said to exercise disproportionate influence on the planning committees. The establishment of planning committees has, however, been aided by the thoroughgoing support of the Union.

Urban interests are frequently represented on county committees. Seventy-nine counties in nine states reported the inclusion of representatives of Bankers' Associations, and eighteen counties in five states reported the inclusion of Chamber of Commerce representatives.[40] There are numerous other cases in which one or two bankers or business men, particularly those interested in processing or marketing farm products, are included. Lawyers, ministers, and newspaper editors appear occasionally. But in general there is not systematic representation of urban groups or urban interests. Land Use Planning Committees start with problems of direct and immediate importance to farmers, but before they go very far they usually find themselves confronted with problems of general county interest. There would seem to be a good case for more systematic representation of non-agricultural interests of the county together with the various types of agricultural interests. It is probable that agricultural planning would be strengthened by more frequent recognition of the community of interest between town and country.

VI. PUBLIC OFFICERS ON COUNTY COMMITTEES

It is part of the theory of County Land Use Planning that farmers, equipped with practical experience and first-hand knowledge of their immediate problems, can assist technicians and ad-

[39] In Lewis county, W. Va., the Bureau had to approve selection of the county as a "unified" county, and fifty per cent of the elected community committeemen and most of the county committeemen are Bureau members. In Carleton county, Minn., the Farm Bureau Board and the County Board of Supervisors appointed a temporary County Planning Committee, and about fifty per cent of the committeemen selected later are Bureau members. In Missouri, where the Farm Bureau Board is the Extension advisory board in about one-third of the counties, it was reported that there was a tendency for the Bureau to monopolize membership on the planning committees in those counties.

[40] U.S.D.A., B.A.E. and Extension Service, "Report on the Progress of Land-Use Planning during 1939," p. 9.

ministrators charged with the responsibility of operating administrative machinery devised to cope with agricultural problems. It is also part of the theory that trained technicians and administrators can assist farmers accurately to analyze the causes of their difficulties and to find the proper type of remedial procedures, whether the procedures are to be followed by individuals, groups, or governmental agencies. That type of farmer planning was to be avoided that might propose a local A.A.A. schedule totally out of line with national policy and impossible under existing legislation. And that type of technician planning was to be avoided that might propose the resettlement outside the county of farmers who had no desire to leave their homes. It was hoped that the committee machinery set up would achieve a workable fusion between the expression of local needs and experience and the guidance of technical analysis and advice. Planning was to be done, not by experts alone and not by laymen alone, but by representatives of both working together.

The number of representatives of state and federal agricultural agencies who are acting on County Planning Committees indicates the wide spread of participation by technicians and administrators. On each of the 1,120 County Planning Committees, the State Extension Service is represented by the county agent. In addition, the county home agent and one or more vocational agricultural teachers sit on about two-fifths of the county committees, and one or more vocational home economics teachers on about one-seventh. The two federal agricultural agencies with local representation in the largest number of counties are the A.A.A. and the Farm Security Administration. Among the federal agencies represented on planning committees, they naturally stand first, the A.A.A. being represented in more than ninety per cent of the organized counties (1,030 out of 1,120), and the F.S.A. in about eighty-three per cent. Unlike other federal agencies, the A.A.A. is represented by local farmer committeemen rather than by full-time administrative officials. Since county and district A.A.A. committees already existed when Land Use Planning Committees were created, and since planning activities had been undertaken under A.A.A. leadership, it is natural that a large percentage of A.A.A. committeemen should be found on Land Use Planning Committees. It frequently happens that from one-half to three-quarters of the farmer members of the County Planning Committees are also A.A.A. committeemen; but this is by no means true in all counties,

and there seems to be a tendency to increase the number of farmers actively participating in agricultural programs by recruiting a larger percentage of planning committeemen who are not also A.A.A. committeemen. The Soil Conservation Service and the Farm Credit Administration are each represented on about thirty-eight per cent of the committees, and the U. S. Forest Service on twenty-one per cent.[41] Fourteen other federal agencies are represented, but none of these is represented on more than five per cent of the organized county committees.[42]

If the relationship described above is to be maintained, one would expect the agency representatives to act as full members of the county committee. This was obviously the intention of the Mt. Weather Agreement, and it is the practice that most states follow. In some states, however, agency representatives are regularly regarded as "advisory members" or "non-voting members;"[43] and occasionally a county agent will consider the agency representatives as advisory members although the state B.A.E. and extension leaders regard them as full members. The question of exact classification for agency representatives may be an academic one, since if they attend committee meetings at all they undoubtedly participate in the discussion, and since decisions of the committee will not ordinarily depend upon formal votes. The caution in respect to agency representatives indicates a healthy tendency to anticipate and avert the danger that the farmer members of the committee may be so thoroughly dominated by respect for the authority of experts that their own contribution to the planning

[41] *Ibid.*, p. 9; figures as of December, 1939.

[42]

Rural Electrification Administration	53	counties in	10	states	
Tennessee Valley Authority	52	"	"	5	"
Bureau of Indian Affairs—U.S.D.I.	23	"	"	9	"
Bureau of Biological Survey	11	"	"	7	"
Division of Grazing—U.S.D.I.	7	"	"	3	"
Federal Crop Insurance Corporation	6	"	"	1	"
Work Projects Administration	3	"	"	3	"
Civilian Conservation Corps Camps	3	"	"	2	"
Bureau of Entomology and Plant Quarantine	3	"	"	1	"
Bureau of Reclamation	2	"	"	1	"
Bureau of Chemistry and Engineering	1	"	"	1	"
National Park Service	1	"	"	1	"
Public Roads Administration	1	"	"	1	"
Bureau of Animal Industry	1	"	"	1	"
U.S.D.A.—unclassified in reports	12	"	"	1	"

Ibid., p. 9.

[43] This has been so, for example, in W. Va., Va., Miss., and Mont.

process may be lost. But there is the possibility that planning may occasionally suffer by a too mechanical interpretation of the principle that Land Use Planning must represent farmer thinking. Close coöperation between farmers, technicians, and administrators from the beginning of the process to the end will avoid the disillusionment that comes with the sudden discovery that a carefully worked out plan is simply impossible under existing legislation or federal administrative regulations. During the first year of County Land Use Planning, this sort of disillusionment has arisen in a number of instances from the failure of a county committee to secure comprehensive adjustments in the A.A.A. schedule for the county.

If Land Use Planning Committees become permanent institutions—and there is good reason to believe that they may do so—they must inevitably become an important part of the pattern of local governments. For problems of agricultural and land use adjustments are necessarily related to more general and more specific problems that are of immediate interest to local governments. Planning committees seldom go far before they become involved in questions about such things as land valuation, assessment, the distribution of taxes, tax delinquency and reversion, local water control, and secondary roads. Further study of rural living is likely to lead them to an examination of such subjects as educational facilities, recreational facilities, local health protection, etc. Necessary adjustments in these fields may depend entirely upon local government action, or may require coöperation between local government agencies and state or federal agencies. It is not the purpose of county land use planning to replace or crowd out local government agencies; its purpose is rather to help integrate local, state, and federal activities in each county into a united attack upon basic land use and agricultural problems. There is, of course, the possibility of paralyzing friction between this new type of representative agency and the long-established representative agencies; but there is also the possibility of very profitable collaboration. Mr. Leon Wolcott has called attention to the new opportunities which the land use planning program and earlier agricultural programs have opened to local government agencies.[44]

For the same reason that agricultural agency representatives are

[44] "National Land-Use Programs and Local Governments," *National Municipal Review*, Vol. 28 (1939), p. 111 ff.

included on county committees, it would seem wise to include representatives of local government agencies as well. Although the Mt. Weather Agreement does not mention agencies except those dealing with agriculture, local government agencies are in fact represented on many committees. The county governing board is represented on 164 county committees in seventeen states, school officers on forty-three committees in sixteen states, state and local highway departments on twenty-three committees in eight states. In Maine, the town selectmen are regularly appointed to county committees, and in New Hampshire the county committees ordinarily include one or two selectmen. Other local government officers appear occasionally. State and city planning board representatives are reported for only five committees in two states.[45] It should be noted, however, that these figures do not give an accurate picture of the number of local government officers serving on planning committees. They give only the number of designated representatives. County agents frequently explain that a county commissioner or other county or township officer happens to be a farmer member of a community or county committee, but that he does not represent the board or office. Thus the total number of local government officers serving on planning committees in one capacity or another is considerably greater than the figures given here.

A unique relationship between county government and land use planning exists in Wisconsin. Here the County Planning Committee is built around the County Agricultural Committee. State legislation provides that the County Agricultural Committee shall consist of the chairman of the county board, the county superintendent of schools, and three farmers appointed by the county board. This committee is charged with the supervision of agricultural extension work in the county, and it hires the county agent. Thus a county board committee has the responsibility left in some states to a Farm Bureau Board. This County Agricultural Committee has been the sponsor for land use planning, and in all but one county it has set up a planning committee by simply adding additonal farmers and agency representatives to its own membership. Thus there is a direct relationship with county government, since the core of the County Planning Committee is a subcommittee of the county board and the other members of the planning com-

[45] U.S.D.A., B.A.E. and Extension Service, "Report on the Progress of Land-Use Planning during 1939," p. 9.

mittee are appointed by this subcommittee. Community planning committees, appointed by the County Planning Committee, usually include in their membership a number of township officers. They are set up on a township basis, and the town chairman and town assessor are usually appointed as members.

In several northern Minnesota counties, the county board directly sponsors the planning program and shares with the Farm Bureau Board and the county agent responsibility for the appointment of committeemen. In at least two Minnesota counties, the full county board, five in number, became part of the County Planning Committee. In northern Minnesota counties also, a number of town board members and the town assessor are included on community planning committees.

In both Wisconsin and Minnesota, the inclusion of county and town officers on planning committees is regarded as particularly important, because land use planning is likely to begin there with such problems as county zoning, tax delinquency, or forestry development problems which are likely to require the prompt cooperation of local governments. This is especially true of the northern counties in both states, and it is in these counties that the program is moving most rapidly.

Local planning organizers in all states have insisted, almost without exception, that county planning organization and action have been entirely free from local political partisanship. It is probable that determination to avoid the risk of disputes arising from such partisanship has in many instances prevented specific designation of representatives of local government agencies as committeemen. This fear of political involvement is a natural product of the Extension Service tradition of non-partisanship which has been successfully maintained in most states. But it is obvious that land use planning cannot be dissociated from politics, in the proper sense of the word, since so many of the problems which planning committees face are necessarily and properly political questions. A more general recognition of this fact might have an important effect upon the composition of planning committees.

VII. SOME CONCLUSIONS

It is one of the tasks of political theory to clarify in terms of principles new political relationships as they develop, and to direct

that development in practice by relating it to normative standards in theory. A broader view of the material examined above suggests some very basic questions about contemporary political theory. One important section of such political theory has dealt with private associations and the rôle that they play in the democratic state. The Guild Socialists pictured a structure of vocational group organization which would rival or replace the traditionally constituted governing authority; others have pictured vocational groupings as self-interested pressure groups, as centers of resistance against the necessary tendency of the modern government to absorb more and more of the freedom of individuals, as multiple balances against the solid weight of the modern Leviathan. Consideration of the recent programs of the Department of Agriculture, and particularly of county land use planning, suggests the inadequacy of both these approaches to explain the nature of the relationship developed between the Department of Agriculture and farmer groups.

In the first place, it was not simply the farmers' organized power of pressure or resistance that made farm problems national problems. The force that farmers can in fact direct against the state has been limited by the lack of effective organization, and by the fact that it is harder to unite on a positive program than on negative opposition. The scattered and sporadic farmer strikes and demonstrations of 1933 were not directed against government force, but rather represented a vague demand for positive government assistance. It is possible to use force to sabotage a positive government program, but it is difficult to see how farmer demonstrations could have forced a new program of action. To picture vocational groups as actual or potential centers of resistance to government encroachments tends to subordinate the importance of the positive, creative rôle of government action and of the positive coöperative relationship that can be created between the state and other associations. The federal government itself called into existence the committees which are expected to represent farmer interests. These committees cannot accurately be described as centers of resistance; they are rather organs for positive collaboration in the making, interpreting, and administering of government policy. Their effect is the result of continuous influence from inside rather than of spasmodic pressure or resistance from outside the government

structure. A simple pressure-group concept is discarded as theory by those who, like former Secretary Wallace and M. L. Wilson,[46] have attempted to interpret this type of democratic participation. It is disproved by practice when significant parts of the agricultural program are found to be operating in the interest of groups that are in no position to exert an effective pressure.

In the second place, the county land use planning program suggests the need for a reappraisal of Guild Socialist and similar pluralist theories. John M. Gaus has suggested recently that the Guild Socialists and pluralists generally "seem to have held over-simple conceptions of the homogeneity of interest of those following a vocation."[47] For farm groups, the heterogeneity arising from such things as commodity or regional competition, organization loyalties, and economic and social differentiation prevents the appearance of a single united front. Two consequences of this heterogeneity might be noted. First, to the extent that democratic compromises must be worked out within heterogeneous vocational groups, the danger inherent in acknowledging and institutionalizing vocational groupings would seem to decrease. On the other hand, this study has shown very clearly that it is difficult to make vocational representation much more extensively representative than the traditional type of territorial representation.

Perhaps the most important aspect of vocational representation as it now operates in agricultural organization is its effect in widening rather than narrowing the outlook of vocational representatives. The relationship between practicing farmers, government technicians, and government administrators which is made possible through the land use planning committees cannot fail to broaden the vision of this particular vocational group and to bring local problems more frequently into the necessary context of national problems and actual or tentative national policies. Obviously, this type of economic democracy, with its emphasis upon the relation between vocational interests and more general interests—while it may be regarded as a supplement to the more familiar type of

[46] Cf. paper read by M. L. Wilson (former Under-Secretary of the Department of Agriculture, now Director of Extension Work) at 36th Annual Meeting, American Political Science Association (Political Theory Section), Dec. 28, 1940, and numerous other speeches by Mr. Wilson.

[47] "The A.A.A. Experience and Guild Socialist Theory," paper read at 36th Annual Meeting, American Political Science Association (Political Theory Section), Dec. 28, 1940.

political democracy—could never be regarded as a substitute for it.

The relationship thus established is not a federal one. It involves no attempt to draw boundaries around spheres of competence. The relationship is rather one of integration, which involves simultaneous centralizing and decentralizing of responsibility. It cannot be defined in theory if we retain a conception of the state as an organization sharply separate from other organizations—as a self-sufficient association with its own exclusive ends, machinery, and personnel; as a self-contained association which can have only external relations with other associations. And it cannot be defined with the help of the Guild Socialist theory of freely-negotiating vocational groups, or of other types of pressure-group interpretations of the democratic process. These share the same fallacy as that which appeared in the theory of economic *laissez faire* and in mechanical states-rights federalism: namely, disregard of the problem of integration. These several theories tend to assume that all difficulties are practically solved when freedom is secured for the individual or the group. But the central problem of the new democracy which seems to be emerging in the relations between government and agriculture is not that of balancing individuals against individuals and groups against groups—is not a problem of balance and resistance at all—but a problem rather of integration. The machinery for democratic participation in policy-making and administration has developed far already. The interpenetration of the views and experience of public officials and of laymen in a private-public complex for performing public functions has been made a part of regular procedure in agricultural administration. A clearer definition of the type of theory which will at once explain and support this development is essential.

Federal Restrictions on the Political Activity of Government Employees. At various times in the past, the question of the extent to which political activity on the part of government officers and employees should be curtailed has been a subject of public discussion. Within the past two years, the question has arisen again in connection with the passage by Congress of what is popularly known as the Hatch Act.[1] The purpose of the present article is to point out the principal restrictions imposed by this new, as well as by earlier, federal legislation upon the political activity of individual government employees. These restrictions are of three types: (1) those relating to political contributions and solicitation, (2) those relating to political office-holding, and (3) those relating to political activity generally. Each of these types will be discussed, first, in relation to federal employees, and second, in relation to employees of state and local governments.

I. POLITICAL CONTRIBUTIONS AND SOLICITATION

The Hatch Act contains nothing on the subject of political contributions by or political solicitation of federal employees.[2] The subject, however, is covered by provisions of the Pendleton Law enacted in 1883 which are still in force. After declaring that "no person in the public service is for that reason under any obligation to contribute to any political fund, or to render any political service, and that he will not be removed or otherwise prejudiced for refusing to do so," the Pendleton Act provides further that (1) no officer or employee of the United States, including members of Congress, shall solicit or receive any political contribution from another such officer or employee; (2) no employee shall make any contribution to another employee or to a member of Congrees to be used for a political purpose; (3) no person shall solicit or receive any political contribution from a federal officer or employee in a government building; and (4) no officer or employee shall promote or demote any other officer or employee for making or refusing to make a political contribution. Violation of the law is made a misdemeanor punishable by fine not to exceed five thousand dollars, by imprisonment for not over three years, or by both.[3]

[1] There are in reality two Hatch Acts. The first, *Public—No. 252—76th Congress* was passed in 1939; the second, *Public—No. 753—76th Congress*, in 1940.

[2] The term "federal employees" as here used does not include persons who are on federal relief. Sec. 5 of the first Hatch Act forbids any person to solicit or receive contributions from relief workers, and Sec. 6 makes it unlawful for any person to give or to receive lists of such persons for political purposes.

[3] Now a felony, since all offenses punishable by imprisonment for a term exceeding one year are declared by law to be felonies. *Code of the Laws of the United States* (1934), p. 766.

From the foregoing summary of the provisions of the Pendleton Act it is seen that there is no prohibition upon contributions by federal workers to persons who are not employed by the United States if the contribution is not made in a government building. In like manner, solicitation of federal employees, both classified and unclassified, is forbidden only when done by another federal employee or on federal premises. In other words, there is nothing in the law to prevent solicitation by party workers or private individuals. Federal officials may not, however, supply the names and addresses of government employees for this purpose,[4] nor can their names appear upon or be attached to any letter of solicitation.[5] Furthermore, it has been held that the solicitation cannot be by letter addressed to and delivered by mail or otherwise to the building in which the employee works.[6] This is interpreted by the Civil Service Commission to include letters from which the home address has been omitted and which as a result are delivered by the postal authorities to a government building.

The provisions of federal legislation relating to political contributions and solicitation were in some respects erroneously interpreted during the presidential campaign of 1940 by Edward J. Flynn, chairman of the Democratic National Committee. In a letter to Democratic campaign managers, Mr. Flynn pointed out that there was nothing in the Hatch Act or other federal laws to prevent federal employees, whether covered by civil service laws or not, from making contributions to or being solicited by persons other than government workers.[7] He did not point out, however, that the contribution could not be made nor the solicitation occur on federal premises. Mr. Flynn further stated that there was nothing to prevent federal officials from furnishing lists of government workers, together with their salaries, to party candidates, committees, or campaign managers. As already indicated, however, this practice has been forbidden by a ruling of the Civil Service Commission.

II. POLITICAL OFFICE-HOLDING

The question of whether a person holding an administrative position in the federal government can at the same time hold by appointment another federal, state, or local office, or be a candidate for election to such office, has arisen on many occasions. Prior to the passage of the Hatch Act in 1939, federal employees, both classified and unclassified, were allowed to become candidates for positions filled by presidential appointment.

[4] *Civil Service Act and Rules, Statutes, Executive Orders and Regulations*, U. S. Civil Service Commission (1939), p. 11.

[5] 24 *Opinions of the Attorney General*, p. 133; *Political Activity and Political Assessments of Federal Officeholders and Employees*, U. S. Civil Service Commission, Form 1236 (1939), p. 18. [6] United States v. Thayer, 209 U. S. 39 (1908).

[7] *New York Times*, Oct. 18, 1940.

The former had to secure the consent of the department in which they were employed, however, and were forbidden to use their official authority or influence to secure the appointment. They could circulate petitions and seek endorsements, but had to avoid any action that would cause public scandal or give the appearance of coercion.[8] If a presidential appointment was secured by a classified employee, he had, of course, to resign from his former position. These requirements do not appear to have been affected by the provisions of the Hatch Act. They are based upon Civil Service Rule I, the enforceability of which in this respect is not impaired by the provisions of the statute.[9]

The first important interference with the privilege of federal employees to hold state or local office came during President Grant's administration, when federal officeholders in large numbers flocked to the South and took over many positions in the state governments.[10] President Grant declared in an executive order issued on January 17, 1873, that it was his belief that, "with few exceptions, the holding of two such offices by the same person is incompatible with a due and faithful discharge of the duties of either office; that it frequently gives rise to great inconvenience, and often results in detriment to the public service; and moreover is not in harmony with the genius of the government." The order accordingly prohibited persons occupying any appointive federal civil office from holding at the same time any state, territorial, or municipal office. Violation of the order was to be treated as resignation from the federal service.

Despite the apparent stringency of the original order, a number of exemptions were allowed by it and by subsequent interpretative orders.[11] Although most of these were in favor of state and local positions of a non-political character, certain exceptions also were made for political officeholding in municipalities adjacent to the District of Columbia. By a series of executive orders and Commission rulings, federal employees who were permanent residents of Maryland and Virginia municipalities in the metropolitan area of Washington were allowed to become candidates for and hold municipal offices.[12] Persons who availed themselves of the privilege were forbidden, however, to neglect their official positions or to engage in national, state, or county political activity in violation of the civil service rules. In case of violation, the head of the department or independent agency in which the person was employed was required to

[8] *Political Activity and Political Assessments of Federal Officeholders and Employees*, p. 9. [9] See below.

[10] Jane P. Clark, *The Rise of a New Federalism*, pp. 82–83.

[11] See *Political Activity and Political Assessments of Federal Officeholders and Employees*, pp. 10–15.

[12] The privilege was extended also in 1931 to all federal employees residing in Arlington county, Virginia. *Ibid.*, pp. 16–17.

inflict such punishment as might be recommended by the Civil Service Commission.

An executive order of May 14, 1909, amended on August 27, 1919, authorized the Civil Service Commission, upon the recommendation of the Secretary of the Navy or the Secretary of War, to allow employees of government navy yards or other military establishments to hold elective offices in near-by municipalities. Under this order, a few additional exemptions from the order of 1873 were granted.[13]

The Hatch Act of 1939 contained a broad prohibition against the participation of federal employees in political campaigns,[14] which was interpreted by the Attorney General as prohibiting them from becoming candidates for any elective state, territorial, or municipal office whatsoever.[15] The holding of an appointive position, however, was held to be permissible provided that it was specifically authorized by statute or executive order, and provided that the employee did not engage in political management in securing the office or in discharging its duties.

Although the prohibition against the holding of elective office affected only a small number of federal employees who were members of town councils or held other elective positions in municipalities in the metropolitan area of Washington, the second Hatch Act contained an exemption in their favor. The Civil Service Commission was authorized to permit government employees to take part in politics in the Maryland and Virginia municipalities adjacent to the District of Columbia and in any other municipalities a majority of whose voters were employed by the federal government. Since the act of 1940 does not automatically restore former privileges, it is necessary for the municipalities in question to petition the Commission to allow local residents who are federal office-holders to become candidates for elective positions. If the municipality is one for which an exemption had previously been made, it must prove to the satisfaction of the Commission that the situation is the same as that which existed prior to the passage of the original Hatch Act. If the privilege had not previously been conferred, the municipality must submit information to show that the duties of the offices are purely local and are not involved in state or national politics, that both nominations and elections are non-partisan, and that both federal employees and the local communities will be benefitted by exemption from the law. Municipalities

[13] *Annual Report of the United States Civil Service Commission*, 1928, p. 22; *ibid.*, 1929, p. 19. [14] See below.

[15] In a subsequent opinion (April 17, 1940), the Attorney General ruled that "if one acquires an elective office without being a candidate therefor and without actually taking any part in any political campaign or political management . . . his acceptance and holding of the office is not to be viewed differently than if it were an appointive office—the statute being directed at political activity rather than the holding of public office."

which are not in the vicinity of Washington must supply essentially the same information, and in addition must show that more than one-half of their registered voters are employees of the federal government. Before granting their request, the Civil Service Commission will consult the department whose employees are principally concerned.[16]

III. POLITICAL ACTIVITY

Although the general impropriety of active participation in political campaigns on the part of federal employees was recognized very early in our history, it was not until 1883 that the practice was dealt with in any act of Congress. The Pendleton law declared that "no person in the public service is for that reason under any obligations . . . to render any political service," nor does he have "any right to use his official authority or influence to coerce the political action of any person or body." The act imposed upon the president the duty of preparing suitable rules for putting this and other provisions of the law into effect. Rule I accordingly provided that "no person in the executive civil service shall use his official authority or influence for the purpose of interfering with any election or affecting the results thereof."

No general prohibition, however, was placed by the rules upon the participation of federal employees in political campaigns. In 1886, President Cleveland issued an executive order in which he warned all federal office-holders "against the use of their official positions in attempts to control political movements in their localities."[17] Because of the fact that the order was enforceable by department heads rather than by the Civil Service Commission, there was no uniformity in its application. As the Civil Service Commission pointed out in its eleventh annual report,[18] "the rules against offensive partisanship are usually strictly construed against the opponents of the party in power, and leniently against their adherents. Government officials belonging to the opposite party are dismissed for attending primaries, writing letters of congratulation to successful candidates, and the like, while adherents of the party in power do these things with impunity. As a matter of fact, no rule about what is deemed proper partisanship in the classified service has ever been authoritatively construed, and the Commission has no authority to construe such a rule."

Except for the effort made by President Roosevelt in 1902 to set up different standards of conduct for classified and unclassified employees,[19]

[16] Information supplied by the U. S. Civil Service Commission.

[17] *Fourth Annual Report of the United States Civil Service Commission*, 1885–86, pp. 541–542. [18] P. 20.

[19] *Nineteenth Annual Report of the United States Civil Service Commission*, 1901–02, p. 20.

there was no change in the situation described in the preceding paragraph until 1907. At that time Civil Service Rule I was amended to read as follows: "No person in the executive civil service shall use his official authority or influence for the purpose of interfering with an election or affecting the results thereof. Persons who by the provisions of these rules are in the competitive classified service, while retaining the right to vote as they please and to express privately their opinions on all political subjects, shall take no active part in political management or in political campaigns."

The result of this change in the rules was to give the Civil Service Commission the power to interpret the prohibition against political activity by classified employees and thus to make uniform for all departments a prohibition which in the past had been individually interpreted by each department head. The Commission, however, was given no independent power to enforce the rule. It could investigate reported cases of violation, but could only recommend to the departments concerned the punishment which it thought necessary. The result was that some departments accepted the recommendations of the Commission and others did not. This situation continued until 1938, when Rule XV was amended to require disbursing and auditing officers to withhold the salary of classified employees who continued to violate the rule against political activity for ten days after a recommendation for discipline had been made by the Commission. On July 20, 1939, the Comptroller General ruled in a letter to the Postmaster General that he had no authority to approve the payment of salary to a postal employee who was not removed from office in accordance with a recommendation of the Commission. It was therefore more than thirty years after the political activity rule was adopted before the Civil Service Commission was given any power to enforce it.

It should be noted that although Rule I is applicable in its entirety to the classified service, it does not apply, except the first sentence, to persons in the unclassified service. Persons in the latter group were therefore, prior to the Hatch Act, not forbidden to engage in political activity, the second sentence of the rule having no application to them except in cases where they might attempt to coerce classified employees who were under their jurisdiction.

The first Hatch Act, however, contained, as already noted, a broad prohibition against the participation of federal employees in political campaigns. Section 2 of the law makes it unlawful "for any person employed in any administrative position by the United States . . . to use his official authority for the purpose of interfering with, or affecting, the election or the nomination of any candidate" for a federal office. In addition, Section 9 of the law provides: "It shall be unlawful for any person employed in the executive branch of the Federal Government, or any agency or depart-

ment thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No officer or employee in the executive branch of the Federal Government, or any agency or department thereof, shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates."

The only persons exempt from these provisions are (1) the president and vice-president, (2) employees of the president's office, (3) the heads and assistant heads of the executive departments, and (4) officers appointed by the president with the consent of the Senate who "determine policies to be pursued by the United States in its relations with foreign powers or in the nation-wide administration of federal laws."[20] The law applies therefore to all federal officials and employees, both classified and unclassified, with the exception of these four groups.

Since the Hatch Act provides that the political activities which are forbidden by Section 9 shall be the same as those which were prohibited to classified employees by the Civil Service Commission at the time when the law went into effect,[21] this section represents only an enactment into law of restrictions formerly imposed upon classified employees by administrative rule and their extension to the previously exempt unclassified group. There are, however, three exceptions to this statement, the first of which concerns the right of federal employees to express their opinions on political subjects. Rule I formerly reserved to classified employees the right "to express privately their opinions on all political subjects." The Hatch Act, on the other hand, reserves to *all* employees the right "to express their opinions on all political subjects and candidates." The omission of the word "privately" from the act gives to all employees, the Attorney General has ruled, the right to express their opinions publicly, provided that they do not do so as a part of an organized political campaign.[22]

Another exception is found in the provision of the Hatch Act which declares that no person employed in any capacity by the federal government shall be a member of any party which advocates the overthrow of constitutional government in the United States.[23] No such restriction

[20] Sec. 9. [21] Sec. 15.

[22] Opinion delivered Jan. 8, 1941. This interpretation follows the opinion expressed by President Roosevelt at the time he signed the first Hatch Act. The President stated at that time: "I have been asked whether they [government employees] would lose their positions if they should merely express their opinion or preference publicly—orally, by radio, or in writing—without doing so as part of an organized political campaign. The answer is no." *Pernicious Political Activities; Message from the President of the United States Relating to Senate Bill 1871*, Sen. Doc. No. 105, 76th Cong., 1st Sess., p. 2. [23] Sec. 9A.

had previously been placed upon classified employees by the Civil Service Commission. The third exception is that the prohibition upon political activity which is imposed by the law does not apply to campaigns and elections (1) in which none of the candidates represents a party which polled any votes in the preceding national election or (2) in which the question is not specifically identified with any national or state political party.[24] The second part of this exemption covers "questions relating to constitutional amendments, referenda, approval of municipal ordinances, and others of a similar character."

Except in these three respects, the Hatch Act makes no change in the prohibitions previously imposed upon classified employees by the Civil Service Commission. Unclassified employees, with the exception of the groups mentioned in the law, will in future be subject to the same restrictions. They will not, however, be subject to any additional restrictions which might conceivably be imposed upon classified employees by the Civil Service Commission under Rule I. The definite effect of the law, so far as the unclassified service is concerned, is to "freeze" the prohibitions upon political activity to which the classified service was subject in 1940. It is possible that these same prohibitions may also be "frozen" as respects the classified group. On that point the law is not clear.[25]

The restrictions imposed by the Hatch Act and by Rule I apply to federal employees, not only when they are on duty, but also when they are on furlough or leave of absence. They apply also to temporary, emergency, and substitute employees during the period of their employment. Furthermore, it is not permissible for an employee to take a leave of absence for the purpose of working for a political committee or organization or of becoming a candidate for an elective office with the understanding that he will resign his position if nominated or elected.[26] Retired employees, however, are not regarded as subject to the law and rules, and are therefore free to engage in politics to the same extent as persons not connected with the government service.

The Civil Service Commission has ruled that whatever an employee is forbidden to do "directly or personally, he may not do indirectly or through an agent, officer, or employee chosen by him or subject to his control. Employees are therefore accountable for political activity by persons other than themselves, including wives or husbands, if, in fact, the

[24] Sec. 18.

[25] Although Sec. 15 provides that the political activities which are forbidden by Sec. 9 shall be the same as those which were prohibited to classified employees by the Civil Service Commission at the time the law went into effect, Sec. 10 declares that the provisions of the act shall be in addition to and not in substitution for any other provision of law.

[26] *Political Activity and Political Assessments of Federal Officeholders and Employees*, p. 3.

employees are thus accomplishing by collusion and indirection what they may not lawfully do directly and openly. . . . This does not mean that an employee's husband or wife may not engage in politics independently, upon his or her own initiative, and in his or her own behalf."[27] There must not be any collusion or coercion, however, which would impute the activity of one to the other.

The question of what constitutes active participation is one which it is extremely difficult to answer. In the final analysis, it is, of course, not possible to enumerate all of the activities which are forbidden to federal employees nor all of those which are permitted. Furthermore, the difference between forbidden and permitted activity is in some instances one of degree only, as a number of the following examples will show.[28]

A federal employee may attend a political convention as a spectator only. He may not serve as a delegate or committee member nor take any part in deliberations or demonstrations. On the other hand, he may not only attend a primary meeting, mass convention, or caucus but may participate in its deliberations to the extent of voting on all questions. Membership in a political club is allowed, but taking an active part in its affairs is prohibited. As already noted, employees may express their opinions publicly on political subjects and candidates so long as they do not take an active part in the campaign. Although they are forbidden to distribute badges or buttons, they may wear them, and in addition may put pictures or stickers in the windows of their homes and automobiles. They may not march in a political parade except as members of a band or orchestra which is generally available for hire as a musical organization.

Under the political activity rule, offensive activities at primary and regular elections are forbidden. An employee "must refrain from soliciting votes, assisting voters to mark ballots, helping to get out the voters on registration and election days, acting as the accredited checker, watcher, or challenger of any party or faction, assisting in counting the vote, or engaging in any other activity at the polls except the marking and depositing of his own ballot. Rendering service, such as transporting voters to and from the polls and candidates on canvassing tours, whether for pay or gratuitously,"[29] is also prohibited. On the other hand, these activities would seem to be permissible if the election is non-partisan or non-political in character.

As already indicated, the Hatch Act guarantees to every government employee the privilege of voting as he chooses. Although not guaranteed

[27] *Ibid.*, p. 5.

[28] See *Relative to Pernicious Political Activities*, by the Attorney General of the United States, Sen. Doc. No. 135, 76th Cong., 2nd Sess. (1939); and *Political Activity and Political Assessments of Federal Officeholders and Employees*, Form 1236, U. S. Civil Service Commission, 1939.

[29] *Ibid.*, p. 7.

by the law, the right of assembly and petition seems not to be interfered with. An act of 1912 guarantees this right to classified employees so far as petitioning or giving information to Congress is concerned.[30] The Civil Service Commission has ruled, however, that the right does not extend to petitions addressed to state or local governments. "A classified employee is permitted to sign petitions of the latter class *as an individual*, without reference to his connection with the Government, but he may not initiate them, circulate them, or canvass for the signatures of others."[31]

When President Roosevelt signed the original Hatch Act, he issued a lengthy statement in which he enumerated several activities which would be permissible under the law.[32] The two which are of chief importance are: (1) membership in such organizations as Young Republican Clubs, Young Democratic Clubs, the League of Women Voters, the American Federation of Labor, and the Congress of Industrial Organizations is not forbidden, and (2) the act does not take away the right of every government employee to disseminate factual information regarding the conduct of government affairs or to answer attacks upon or misrepresentations concerning his work.

Although the first Hatch Act stipulates that any federal employee who violates the law shall be "immediately removed from the position or office held by him," it does not provide for any method of enforcement. In the statement issued by President Roosevelt at the time he signed the act, he said that he was asking the Attorney General "to take the necessary steps through the new Civil Liberties Unit of the Department of Justice in order that the civil rights of every government employee may be duly protected and that the element of fear may be removed." The Departmnet of Justice therefore assumed the duty of interpreting the law to individuals who sought to ascertain its application to particular situations. After a brief period, however, this practice was discontinued and the duty of interpreting the law as it applies to the classified service was taken over by the Civil Service Commission. At the same time the Department of Justice announced that it would give no further opinions except upon request of the president or the head of an executive department.

Not only did the Civil Service Commission take over the duty of interpreting the law, but it also assumed that of enforcing its provisions as they relate to classified employees.[33] Since the act neither adds to nor sub-

[30] *Code of the Laws of the United States* (1934), p. 85.

[31] *Political Activity and Political Assessments of Federal Officeholders and Employees*, p. 8.

[32] *Pernicious Political Activities; Message from the President of the United States Relating to Senate Bill 1871*, Sen. Doc. No. 105, 76th Cong., 1st Sess.

[33] *Press Release*, U. S. Civil Service Commission, Aug. 8, 1940.

tracts from the list of activities which had been previously forbidden under Rule I, except as noted above, the Commission is in reality enforcing only the provisions of the rule as they apply to the classified group. It has no power to interpret or enforce the act as it relates to unclassified employees, and so this is left to each department or other agency of the government. At least some of these have incorporated the acts which had been previously held to be in violation of the rule into their own personnel regulations. Under such circumstances, however, uniform enforcement of the law as it applies to unclassified employees is extremely unlikely.

It should be noted in connection with the enforcement by the Civil Service Commission of the provisions of the Hatch Act as they relate to classified employees that the act provides for no scale of penalties such as have been used in the enforcement of Rule I. The law provides only that in case of violation of these provisions the person shall be immediately removed from office.[34] On the other hand, the penalties for violation of Rule I formerly ranged from reprimand to removal. The conflict between rule and law at this point has, however, been eliminated by an opinion of the Attorney General to the effect that the provisions of the law are controlling and that penalties of less than removal cannot be invoked.[35]

IV. EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

When President Roosevelt signed the Hatch Act of 1939, he called attention to the fact that its prohibition upon political activity by government employees applied only to employees of the federal government. He suggested that Congress at its next session study the feasibility of extending the provisions of the law "to cover state and local government employees who participate actively in federal elections."[36] It seems to have been his thought that Congress had the power to protect the integrity of congressional and presidential elections and that this power should be exercised through a prohibition upon active participation in them by all employees of state and local governments.

The provisions of the second Hatch Act are much more far-reaching, however, than the suggestion of the President. Section 2 of the first law, under which federal employees had been forbidden to use their official authority for the purpose of interfering with any congressional or presidential nomination or election, was broadened to apply to those employees of state and local governments who were engaged in activities financed wholly or in part by federal funds. In addition, Section 12(a) of the act of 1940 forbids persons whose principal employment is in a federally-aided activity (1) to use their official authority or influence for the purpose of

[34] Sec. 9A (2). [35] Opinion delivered Jan. 8, 1941.

[36] *Pernicious Political Activities, Message from the President of the United States Relating to Senate Bill 1871*, p. 4.

interfering with *any* nomination or election, (2) to coerce, command, or advise any other such employee to make a political contribution or loan, and (3) to take any active part in political management or political campaigns.

The prohibitions imposed by Section 12(a) differ in only one respect from the prohibitions imposed by the original Hatch Act upon all federal employees. The difference is that the original law contained no provisions relating to political contributions by or political solicitation of federal employees; nor were any added in 1940. Except for this difference, the political activities forbidden by the second Hatch Act to certain employees of state and local governments are the same as those which are forbidden by the act of 1939 to all federal employees.

The most difficult question involved in the application of the Hatch Act to employees of state and local governments is not, therefore, the political activities which are forbidden but the determination of the persons who are covered. As noted above, Section 2 of the law applies to *all* employees of state or local government agencies who are engaged in activities financed wholly or in part by federal loans or grants. On the other hand, Section 12(a) applies only to those whose *principal employment* is in a federally-aided state or local activity. Both sections make the performance of some function in connection with a federally-financed activity a condition necessary to bring a person within the scope of the law. Section 12(a), however, sets up another condition. The words "principal employment" have been interpreted by the Civil Service Commission as referring to employment with the state or local agency, and not to employment which is not in the public service.[37] In other words, Section 12(a) applies only to those officers and employees whose principal employment with the state or local government is in connection with an activity which is federally-financed.

President Mitchell of the Civil Service Commission illustrated this point in an address before the National Association of Attorneys General in the following manner.[38] "For instance," he said, "the principal employment of most highway commissioners is something else than the work of the highway commission. Nevertheless, they come under the law—unless they are elected officials, and that is the case in only two or three states—because their state employment is principally with an activity which is financed in whole or in part from federal funds. However, in most cases, highway commissioners give only a small portion of their time to highway work, and, therefore, the Commission, following the principle in a decision rendered by the Attorney General of the United States in a case relating

[37] *Political Activity and Political Assessments*, U. S. Civil Service Commission, Form 1236-A, p. 13.

[38] *Press Release*, U. S. Civil Service Commission, Sept. 7, 1940.

to government employees, has decided that they are only affected by the Hatch Act during the time that they are actually engaged in the work of the highway commission. In other words, they are restricted as to political activity during the time they are actually working for the state highway commission, but are perfectly free to engage in political activity while they are pursuing their everyday avocations as merchants, bankers, lawyers, and other ordinary employment. The same ruling, of course, applies to members of other state boards who are not giving more than a portion of their time to the state."

The Hatch Act covers not only the members of state and local boards while they are engaged in administering a federally-financed activity, but also all persons whose employment with such agencies is temporary, part-time, intermittent, or on a *per diem* basis.[39] Such employees are forbidden to engage in political activity, however, only during periods of active duty. Officers and members of the National Guard, for example, are subject to the law while in active service and on drill nights. On the other hand, full-time employees are covered at all times, even during periods of leave. Retired employees, however, are not subject to the law and can engage in politics to the same extent as persons who are not connected with the public service. Likewise exempt are governors, lieutenant governors, mayors, and all other elected state and local officers, as well as officers and employees of both the legislative and judicial branches of government.

In order to determine the persons who are covered by the provisions of the second Hatch Act, it has also been necessary for the Civil Service Commission to interpret the word "activity." The question here is whether, for example, all the employees of a highway department, or only those whose salaries are paid from federal funds, or only those who perform functions in connection with a federally-aided activity within the department, are covered by the law. In attempting to settle this, the Commission has indicated its intention to keep the meaning of the word "activity" in close relationship to the terms of the federal grant. In other words, the specific language of the statute, regulation, or order which makes the grant is taken as basic in determining what constitutes "activity" within the meaning of the Hatch Law.[40]

In the case of the Federal Highway Act, for example, the grants can be used only for the construction and reconstruction of roads and highways. The act declares construction to mean "the supervising, inspecting, actual building, and all expenses incidental to the construction of a highway except locating, surveying, mapping, and costs of right of way."[41]

[39] *Political Activity and Political Assessments, Form 1236-A*, p. 12.

[40] *Interpretations of the Hatch Act and Regulations on Political Activity*, U. S. Civil Service Commission.

[41] *Code of the Laws of the United States* (1934), p. 969.

In like manner, reconstruction is defined as "a widening or a rebuilding of the highway or any portion thereof to make it a continuous road, and of sufficient width and strength to care adequately for traffic needs." All employees of a state highway department whose principal employment is in the field of highway construction or reconstruction as defined in the law are therefore held to be forbidden to engage in political activity. On the other hand, all of those who are engaged primarily in maintenance work can take an active part in politics unless it can be shown that the work is financed wholly or in part by other federal funds. Employees in staff or auxiliary divisions of the department may or may not be under the Hatch Act, depending upon whether or not the functions which they perform in connection with the jointly financed activities constitute the principal part of their employment with the state organization.[42]

The Civil Service Commission has also had to interpret the word "activity" in relation to the work of a number of educational institutions. In the case of the land-grant colleges, the provisions of the second Hatch Act have been held to apply to practically all of their employees. The basis for this ruling is that the Morrill Act of 1862 imposes certain conditions upon the states which must be complied with in order that the land-grant colleges continue to receive the benefits of subsequent grant-in-aid acts. Although the general purpose of the Morrill Act was to supply aid for the establishment of colleges for the benefit of agriculture and the mechanic arts,[43] the funds derived from the sale of the land granted to the states were to constitute a perpetual fund, the interest on which goes into the general funds of the institution. There is only one restriction upon the use of this money—namely, that no part of it shall be applied in any way to the purchase, erection, preservation, or repair of any building or for the purchase of any land. The act provides that an annual report shall be made to the Secretary of the Interior, and that if any portion of the fund is diminished or lost it shall be replaced by the state. Since the Secretary of the Interior has ruled that failure on the part of a state to conform to these requirements will render it liable to non-certification of funds appropriated by the second Morrill Act of 1890 and the Nelson Amendment of 1907, it is clear that the federal government exercises a continuing control over the land-grant colleges. It is for this reason that the Civil Service Commission has ruled that the second Hatch Act applies to all employees of such institutions except those whose principal employment is in connection with activities for which federal funds obtained under the act of 1862 may not be used.

In addition to the so-called land-grant colleges, there are also a number of other state colleges and universities which have been the beneficiaries

[42] *Interpretations of the Hatch Act and Regulations on Political Activity*, as cited.
[43] *Code of the Laws of the United States* (1934), pp. 135–136.

of land grants from the federal government. In such cases, however, the land was granted to the states for the establishment or maintenance of a college or university with no subsequent control to be exercised by the federal government. Title to the land passed to the state and control over it to the state legislature. The state was not obligated to establish any specific type of institution, nor to make any report to the federal government regarding the manner in which the proceeds from the sale of the land were used. Grants such as these are held by the Civil Service Commission to be completely executed, and therefore not to furnish any basis for application of the provisions of the second Hatch Act.

Although the Civil Service Commission has not passed specifically on the status of all employees of vocational schools which receive federal funds under the Smith-Hughes Act of 1917 and the George-Deen Act of 1936, it has held that teachers of vocational subjects in such schools are covered by the provisions of the law. This ruling is based upon the fact that the Smith-Hughes Act authorized federal appropriations for the purpose of "paying the salaries of teachers, supervisors, and directors of agricultural subjects, and teachers of trade, home economics, and industrial subjects, and in the preparation of teachers of agricultural, trade, industrial, and home economics subjects" . . .[44] Since the funds provided by both acts can be used only for vocational purposes, it would seem to follow that the only employees of such schools who are covered by the second Hatch Act are the teachers of vocational subjects.

On the other hand, it is possible that all teachers in the vocational schools, as well as many other public school teachers, in a majority of the states may be covered by the provisions of the law. The reason is to be found in the fact that federal laws of 1908, 1920, and 1934 authorize grants of money to the states for the benefit of public education. The act of 1908 provides that 25 per cent of all money received as income from the forest reserves of the United States shall be paid annually to the states in which the reserves are located, the money to be spent as the legislature shall direct for the benefit of the roads and schools of those counties in which the reserve is located.[45] The act of 1920 provides that 37½ per cent of the receipts of the United States from bonuses, royalties, and rentals on public lands which contain non-metallic mineral deposits shall be paid annually to the states in which the lands are located, the proceeds to be devoted as the legislature shall direct to public roads or public education.[46] The act of 1934 provides that 25 per cent of the money received from grazing districts situated on Indian lands which have been ceded to the United States for disposition under the public land laws shall be paid to the states in which the lands are located, to be spent as the state legislature

[44] *Code of the Laws of the United States* (1934), p. 905.
[45] *Ibid.*, p. 663. [46] *Ibid.*, p. 1344.

shall direct for the benefit of the public schools and roads of the counties in which the lands are located.[47] The act also provides that 50 per cent of the money received from other grazing districts shall be returned to the states for distribution among the counties, but does not specify the purposes for which it must be spent.

The Civil Service Commission has ruled as respecting the acts of 1908 and 1934 that since Congress can at any time change the percentage allotment to the states,[48] the grants provided by these two acts are grants within the meaning of Section 12(a) of the second Hatch Act. All public school teachers in the counties of those states which receive forest-reserve and grazing-district funds are therefore held to be prohibited from engaging in political activity.[49]

Although the Commission has not passed specifically upon the status of teachers in the mineral-royalty states,[50] it appears that they may also be covered by the provisions of the second Hatch Act. Since the law of 1920 does not provide for apportionment of the grants by the states to the counties in which the mineral deposits are located, it is possible, if any of the money is used for state-wide educational purposes,[51] that all public school teachers in these states may be forbidden to engage in political activity. If the legislature directs that the money be turned over to the counties which contain the mineral deposits and they use it voluntarily or by direction for public education, then only the teachers of those counties would be affected. On the other hand, the act of 1920 might be the means of bringing all the highway employees of the mineral-royalty states, or of certain counties within these states, under the Hatch Act. In like manner, the acts of 1908 and 1934 might be used to bring county highway employees in the forest-reserve and grazing-district states within the scope of the law.

In addition to the grants which are authorized by the acts mentioned above, there have also been grants of both land and money to many of the states which they were required to use for public education.[52] These grants,

[47] *Ibid.*, pp. 1853–1854.

[48] In the case of the act of 1908, it is necessary for Congress to authorize the appropriation annually. Some control over funds collected under the act of 1934 is exercised by the Secretary of the Interior.

[49] In 1937, thirty-nine states and two territories received forest-reserve funds. Timon Covert, *Federal Funds for Education, 1937–38* (Leaflet No. 54, United States Department of the Interior), p. 21. Ten states received grazing-district funds in 1940. Figures are not available regarding the number of counties among which the funds were distributed.

[50] In 1937, fifteen states received mineral-royalty funds. *Ibid.*, p. 22.

[51] The act of 1920 provides that the grants shall be used for public roads *or* public education; the acts of 1908 and 1934 use the conjunction *"and."*

[52] See D. S. Hill and W. A. Fisher, *Federal Relations to Education* (Report of the National Advisory Committee on Education: Part II, Basic Facts), pp. 30–34; also

like those for educational institutions other than land-grant colleges, appear to be completely executed so far as the federal government is concerned. None of the land or money could be reclaimed, and no reporting by the states has ever been required. Although the question has not been passed on by the Civil Service Commission, it seems clear that these grants do not furnish any basis for application of the provisions of the second Hatch Act.

One of the most unfortunate features of the second Hatch Act is that its provisions do not apply with equal effect to all persons within a given field of state activity. Some of the employees of a state highway department are denied the privilege of engaging in political activity while others are not. Teachers in some state universities and in some counties are covered by the law, while those in other state universities or in adjoining counties are not.[53] The fault in this respect seems to lie with the law, however, rather than with the manner in which its provisions have been interpreted. On the other hand, it is doubtful from a constitutional standpoint whether the provisions of the measure could have been made to apply to all state employees.

Administration of the law likewise involves a number of difficulties, the most serious of which is perhaps that of tracing the federal money to its ultimate use. There are already indications that the methods of allocation and accounting used by some of the states are not well worked out. Under such circumstances, determination of the actual persons who are covered by the law may become in many cases almost an impossibility.

As already suggested, enforcement of the second Hatch Act as it applies to employees of state and local governments is vested in the Civil Service Commission.[54] The law makes it the duty of every federal agency through which funds are dispensed to the states to report to the Commission the names of any state or local office-holders whom it has reason to believe are violating the law. Upon receipt of such a report or of any other information which seems to justify an investigation, the Commission is required, after notice to the persons and agency involved, to conduct a hearing and pass upon the alleged violation.[55] If the law is found to have been violated, the Commission may at its discretion order removal of the guilty persons. If the removal order is not carried out within 30 days, or if the person is

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F. H. Swift, *Federal and State Policies in Public School Finance in the United States*, pp. 26, 31.

[53] See Joseph R. Starr, "The Hatch Act and Academic Freedom," *Bulletin of the American Association of University Professors*, Vol. 27 (Feb., 1941), pp. 61–69.

[54] Sec. 12(b)–12(d).

[55] The only investigation which has been authorized so far is of employees in certain departments of the Illinois state government. *Press Release*, U. S. Civil Service Commission, Mar. 13, 1941.

discharged and within 18 months is employed by another state or local agency, the Commission is empowered to order the appropriate federal agency to withhold from its grants or loans to the state agency in which the violation occurred an amount equal to two years' salary of the employee.[56] Any person who is aggrieved by an order of the Commission may within 30 days institute proceedings in the appropriate federal district court for a review on questions of both law and fact.

V. CONSTITUTIONALITY

The constitutionality of legislation restricting the political privileges of public employees has been upheld on several occasions by both state and federal courts. In the case of *Ex parte* Curtis,[57] decided in 1882, the federal Supreme Court, in upholding the provisions of a federal law of 1876 which prohibited political contributions and solicitation, said: "If there were no other reasons for legislation of this character than such as relate to the protection of those in the public service against unjust exactions, its constitutionality would, in our opinion, be clear; but there are others, to our minds, equally good. If persons in public employ may be called on by those in authority to contribute from their personal income to the expenses of political campaigns, and a refusal may lead to putting good men out of the service, liberal payments may be made the ground for keeping poor ones in. So, too, if a part of the compensation received for public services must be contributed for political purposes, it is easy to see that an increase of compensation may be required to provide the means to make the contribution, and that in this way the government itself may be made to furnish indirectly the money to defray the expenses of keeping the political party in power that happens to have for the time being the control of the public patronage. Political parties must almost necessarily exist under a republican form of government; and when public employment depends to any considerable extent on party success, those in office will naturally be desirous of keeping the party to which they belong in power. The statute we are now considering does not interfere with this. The apparent end of Congress will be accomplished if it prevents those in power from requiring help for such purposes as a condition to continued employment."

In 1930, this decision was reaffirmed in the case of United States v. Wurzbach.[58] At that time, it was argued that since Congress has been denied the power to regulate primaries, it has no power to prohibit contributions by federal employees to a member of Congress when they are

[56] It will be observed that the penalty is imposed upon the state if the discharged person is employed by *any* state or local agency in *any* capacity whatever within 18 months after his discharge.

[57] 106 U. S. 371. [58] 280 U. S. 396.

used by him to promote his own renomination. The Court rejected this argument, however, and pointed out that "the power of Congress over the conduct of officers and employees of the government no more depends upon authority over the ultimate purposes of that conduct than its power to punish a use of the mails for a fraudulent purpose is limited by its inability to punish the intended fraud." Continuing, the Court declared: "It hardly needs argument to show that Congress may provide that its officers and employees neither shall exercise nor be subjected to pressure for money for political purposes, upon or by others of their kind, while they retain their office or employment. . . . Neither the constitution nor the nature of the abuse to be checked required us to confine the all-embracing words of the act to political purposes within the control of the United States."

The state courts have taken a similar view regarding prohibitions upon the political activity of state and municipal employees. In McAuliffe v. Mayor of New Bedford,[59] Judge Holmes (later Justice Holmes of the federal Supreme Court), in upholding the validity of a municipal regulation prohibiting members of the police department from soliciting money for political purposes or belonging to political committees, said: "There is nothing in the constitution or the statute to prevent the city from attaching obedience to this rule as a condition to the office of policeman, and making it part of the good conduct required. The petitioner may have a constitutional right to talk politics, but he has no constitutional right to be a policeman. There are few employments for hire in which the servant does not agree to suspend his constitutional rights of free speech as well as of idleness by the implied terms of his contract. The servant cannot complain, as he takes the employment on the terms which are offered him. On the same principle, the city may impose any reasonable condition upon holding offices within its control."

The most recent state case is Stowe v. Ryan,[60] decided in 1931, in which the Supreme Court of Oregon upheld the action of the Multanomah county civil service commission in removing a county employee for violation of the law prohibiting civil service employees from engaging in politics. It seems clear, therefore, that governments in the United States have plenary power to restrain the political activities of their own officers and employees in order to promote efficiency, integrity, and discipline in the public service.

The question of whether the federal government can validly curtail political activity on the part of those employees of state and local governments who are engaged in activities financed wholly or in part by federal funds has not yet been judicially decided. The acceptance by a state of a

[59] 155 Mass. 216; 29 N. E. 517 (1892).

[60] 296 Pac. 857.

federal grant has in the past entailed the acceptance by it of certain conditions imposed by the grantor. Although these conditions are commonly set forth in the statute which authorizes the grant, there does not seem to be any reason why further conditions cannot subsequently be attached. Hereafter when a state accepts a federal grant, it will do so on the condition, among others, that its employees in the subsidized activity will not "take any active part in political management or in political campaigns." In answer to the charge that Congress has invaded the reserved powers of the states, it seems sufficient to quote from the opinion of the Supreme Court in the case of Massachusetts v. Mellon,[61] in which the constitutionality of the Sheppard-Towner Act was involved: "In the last analysis, the complaint of the plaintiff state is brought to the naked contention that Congress has usurped the reserved powers of the several states by the mere enactment of the statute, though nothing has been done and nothing is to be done without their consent; and it is plain that that question, as it is thus presented, is political and not judicial in character, and therefore is not a matter which admits of the exercise of the judicial power."

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[61] 262 U. S. 447 (1923).

Executive Leadership and the Growth of Propaganda. The results which are likely to flow from any political change are extremely difficult to predict. It would have been impossible a generation ago to foresee that the gradual shift, in democratic as well as totalitarian states, of the political center of gravity from the legislature to the executive would create a new instrument of political power. That instrument is official publicity, or, more bluntly, governmental propaganda. It is suggested here that the tremendous growth in the publicity activities of modern governments is a direct consequence of the continued absorption by the executive of a larger degree of legislative initiative and power. Indeed, it seems highly probable that the development of the administrative bureaucracy as a source of policy and law will result, if it has not already done so, in making propaganda an indispensable instrument of government, with profound implications for traditional democratic processes.

In order to see why such an apparently unrelated consequence should follow from the growth of executive power, it is necessary briefly to recall the traditional understandings which have characterized government by consent.[1] The orthodox view of democratic processes made all branches of government, and the legislature in particular, agents for giving expression to the "will of the people." The original impulse toward legislative change presumably grew out of the very conditions under which people lived. That impulse then passed from private to public discussion, through the maneuvering of pressure groups, through party advocacy and opposition, emerging upon the statute-books after the final hazards of management and debate in the legislature.

Applying refinements of analysis and measurement, students of public opinion have recently taught us that this democratic process was always more intricate than had been supposed. Yet most thoughtful students of American government have been willing to admit that, intricate and difficult to define as it is, "popular government" was not a meaningless phrase. It meant that government was a servant, which, with some allowance for misunderstanding and occasionally even fraud, did as it was told, and that it undertook little or nothing which had not been thoroughly discussed in the press and on the hustings. This was the process by which the income tax was imposed, by which woman's suffrage was adopted and prohibition was enacted and repealed. The establishment of the Federal Reserve system climaxed years of debate about the shortcomings of the banks and the monetary system. The anti-trust laws, the direct election of senators, the early farm credit system were put on the statute-books

[1] These conventions of government by consent have been excellently crystallized in E. P. Herring, *The Politics of Democracy*, Chaps. 20, 21.

after years of public and legislative discussion. The legislative impulse grew literally from the grass roots.

No one would deny that this familiar, slow, democratic process has been materially modified. It is scarcely too strong to say that today the government leads and the people follow; and by government is meant, as all would agree, the executive, or the administrative bureaucracy. This is not to say that executive leadership is new or uncommon in American politics. The strong presidents have all been spirited leaders in legislation. Yet never before in peace-time has there been the degree of legislative direction from administrative quarters that the last few years has brought. The quiet acceptance of the lists of "must" legislation has become a symbol of congressional dependence upon administrative guidance.

Many of the principal acts which intimately affect the lives of the American people have been passed without widespread public discussion, indeed without extensive congressional acquaintance, except possibly in committees. Such measures as the A.A.A. and its successor, the Soil Conservation Act, the Inflation Act and the Gold Clause Repeal, the Home Owners' Loan Act and the measures establishing the U. S. Housing Administration, the Tennessee Valley and Rural Electrification Authorities, came with such suddenness that it can hardly be claimed that they followed the traditional pattern of legislation in origin or adoption.

The President's Committee on Administrative Management has supplied data showing the extent of the legislative initiative of the administrative agencies: "Out of the total of 429 public acts exclusive of appropriation acts in the first session of the 74th Congress (1935), 270 referred to the organization or functioning of administrative departments. In the second session of that Congress (1936), there were 156 acts of this character. There is little doubt that the great majority of these acts originated, directly or indirectly, in the departments concerned. Many other bills promoted by the departments did not become law, and departments expressed opinions upon and engaged in other legislative activities in relation to many bills they did not initiate."[2]

Yet the mere number of legislative acts which the administrative agencies have initiated or steered through Congress is not the most accurate measure of the development of government by the executive. A far more important fact is the gradual emergence of the executive as a source of law in its own right. Legislation has become more general and permissive in character, delegating wide areas of discretion to administrators and allowing them to fill in the bare outlines of legislatively-determined policy with administrative orders and regulations which have the force of law. As long ago as 1936, there were 115 federal agencies which, under 964

[2] E. E. Witte, *The Preparation of Proposed Legislative Measures by Administrative Departments* (1937), p. 49.

statutory provisions and 71 executive orders, were issuing rules and regulations affecting the public. These delegations of authority have become so broad that they permit the performance by administrative order of acts, such as the chartering of corporations, which have hitherto been done only by direct legislation.[3] The number of presidential executive orders has now reached 8,673,[4] but it is significant that President Roosevelt has issued such orders at a rate more than twice that of his most prolific predecessor. The question may legitimately be raised whether the influence and authority of the executive on legislation and in the issuance of regulations having the force of law has not reached a point where the traditional understandings of government by consent have been altered.

Yet no sinister explanations are necessary to account for this transfer of legislative initiative and power. It is the outcome of political facts that are generally known and understood. One of these is that the presidency is in some ways actually more representative of the people as a whole than is Congress itself. Congress is too often a group of warring partisan representatives of sections, occupations, and classes, unable to find the common-denominators of national unity and interest. It is then that we turn hopefully to the president to compose differences and to formulate policies. A second fact is the character of President Roosevelt's administrations. It was inevitable that power should drift into the hands of men who, since 1933, have been exuberant in their eagerness to try out new ideas. The "brain-trust" has had the self-confidence of intellectuals trained in the management of words, and who believe that words correspond to things. They have been enormously fertile in the invention of legislation or of ways to circumvent it. Sheer zeal is an important factor in the location of power.

A third fact, however, quite aside from these explanations, would of itself account for the development of the legislative power of the executive. It is that the things which governments currently must do are too complicated or require too much speed to be amenable to the slow processes of public, or even legislative, debate. "Emergency" is a word which has lost its terrors. In fact, "emergencies" have become "normal" and are now provided for in advance.[5] Power and freedom to act are today paramount considerations in government, especially in the management of

[3] The chartering of the Surplus Commodity Corporation by the Secretary of Agriculture and the inauguration of the Food Stamp Plan by administrative order are examples. [4] Feb. 8, 1941.

[5] For example, the executive order establishing the divisions of the Executive Office of the President provides that there shall be established "in the event of a national emergency, or threat of a national emergency, such office for emergency management as the President shall determine." Executive Order, No. 8248, Sept. 9, 1939.

foreign affairs. A new country is invaded, a ship is sunk in neutral waters, a conversation takes place in London or Berlin, and a new set of diplomatic complexities emerges overnight. Embargoes must be declared, credits frozen or released, or new defense measures taken. Readjustment by congressional action of even domestic policies under such circumstances is too slow to be feasible, and Congress has recognized that fact by authorizing the president to act alone in a large number of contingencies.

It would be hopeless to try to outline the boundaries of presidential discretion, but the following is a partial list of the more important things which the president may do without further authorization by or consultation with Congress: change the value of the dollar; issue up to three billion dollars in paper currency; regulate farm or work relief; restrict foreign trade, exchange, and travel; raise or lower tariffs; suspend the eight-hour day for federal employees; control the radio; suspend sugar quotas; ban the export of certain raw materials; forbid the transfer of ships to foreign registry; buy military supplies without bids; seize certain power plants and dams; take over non-coöperating factories for defense. In some of these matters, the limits of presidential discretion are set; in others, he can act only when certain conditions prevail, although he is the judge as to when such conditions exist; in still others, he is given the widest possible choice of ways and means of putting his power into effect.[6]

From this review, it is now possible to show why the transfer of legislative initiative and authority to the executive branch of the government makes inevitable the development of governmental publicity, or more bluntly propaganda activities. The logic of the situation is this. Under all forms of government, the support, or at least the passive approval, of the people for major governmental policies is highly desirable. In democracies, it is assumed that governments cannot or dare not act without it. In dictatorships, it is scarcely less essential, although such approval may be obtained by distasteful methods. In the United States, we have currently equipped the executive branch of the government with enormous powers which it can exercise without further notice or approval. Is it reasonable to suppose that a government to which popular support or acquiescence is indispensable would initiate actions unless it is also equipped with the means of rallying support for them? In short, if the executive must take the risk of acting first and seeking the support of the people afterward, it must have—in fact, it will make sure that it does have—the means of

[6] For a general survey of legislation showing the nature and range of delegated authority to administrative officers, perhaps the most useful brief source is: *Summary of Major Legislation, and of Federal Court Decisions on its Constitutionality, 1933–1940.* Sen. Doc. 187, 76th Cong., 3rd Sess., 1940.

persuading people to approve its actions. This is the chain of political relations which, under a governmental system of executive initiative, makes propaganda an indispensable instrument of government.

In order that this should not be dismissed as mere scholasticism, a number of actual political situations should be examined. The N.R.A., memory though it is, supplies the most spectacular illustration of the relation between an administratively initiated measure and the indispensability of propaganda. It will be recalled that the original bill was drafted almost entirely outside of Congress. Introduced May 17, 1933, it was in the House committee less than a week and was reported out with a recommended debate limit of five hours. The Senate took more time, but its contributions to the bill left the essential features unaltered. The N.R.A. remained a bill conceived and largely matured in administrative bureaus.[7]

The administration of the N.R.A. was a staggering task. Although enacted in the most favorable psychological atmosphere, the suddenness of its appearance, the complexity of code-making and enforcement, and the drastic readjustments in wages and employment which the plan imposed left the public uncertain and bewildered. Hugh Johnson has stated the administrative dilemma very clearly: "If we moved out to compel codes, all of industry would feel that every worth-while thing that has characterized our institutions had gone by the board in a dictatorship far worse than that in any European country, including Russia. . . . It is possible that 7-a and the hours-and-wages provisions could have been rammed down the throat of industry by statutory or executive decree, as some people seem to wish. But I don't believe it. If it had been attempted, it would have required the full force of the federal power, judicial, military, and executive, to do it, and I might as well say here that, if it had

[7] Charles Frederick Roos, *N.R.A. Economic Planning* (1937), pp. 50–54. "Within less than a month after the recovery bill had been introduced, Congress had passed and the President had signed what he termed 'probably . . . the most important and far-reaching legislation ever enacted by the American Congress'." *Ibid.*, p. 53. That there were those who were conscious of the inadequate popular and legislative consideration of the bill can be seen from the following letter from Alexander Sachs to General Hugh Johnson, May 20, 1933: "I submit it is not too late to re-think or to think for the first time what is really needed and how it can practically be secured. I fear, and fear profoundly, that the present device that has emerged from the many authors who have not reached a common basis is too intellectually muddled to produce codes that would work in practice or stand up in the courts when challenged. The danger is that the codes that will be rushed through will be like economic nebulae or chaos. . . . There is no substitute for hard thought and coördinated competence, for rigorous determination of objectives and critical construction; without these, wholesale planning is worse than no planning." *Ibid.*, p. 54.

been attempted in that fashion, I would have been on the other side of the argument."[8]

Propaganda was the only alternative. The Blue Eagle became a symbol under which organized social compulsion imposed both private and governmental boycott on non-complying employers. The non-complier was made a "chiseler" regardless of the reasons for his non-compliance. Patriotism and humanitarianism were enlisted under the Blue Eagle. Those not under the banner faced serious financial and social consequences. Parades and bands became instruments of both popular education and law enforcement, because it was necessary to build swiftly, through emotional appeal, a measure of popular support which would have taken immensely longer to create by methods of public discussion, if, indeed, it could have been created at all.

Among current agencies whose programs illustrate the necessary relation between administratively-fostered policies and the use of propaganda, the Department of Agriculture supplies the best example. The last few years have seen in the swift nationalization of agriculture the inauguration of policies which have been amazing for their magnitude, ingenuity, and economic boldness. These policies have been too intricate to have had a spontaneously popular origin, and too revolutionary economically to have been the outgrowth of slower natural readjustments. In short, the agricultural program has been a "government" program, and the Department, having decided upon a national policy, set out to win public approval for it.[9] Secretary Wallace candidly stated this fact when he said: "It would be unfair not to point out also . . . that a steadfast national allegiance to any fixed course, international or intermediate, also requires a certain degree of regimented opinion."[10]

While no extensive review of the publicity activities of the Department

[8] "The Blue Eagle from Egg to Earth," *Saturday Evening Post*, Feb. 2, 1935, p. 84.

[9] While the Department has been skillful in its publicity, it has never tried to conceal the fact that its policies were administratively conceived and that it intended to secure their adoption. The following statements are representative of the general attitude. "Even before the A.A.A. was passed, the Department was laying the groundwork for an intensive, nation-wide program of education in economic planning." *Report of the Director of Information*, 1933, p. 1. "It [Departmental publicity] is propaganda in the sense that the A.A.A., with full respect for the facts, still gives to the farmers an extensive presentation of one course of action as being more desirable than others. The process involves picking and choosing as between sets of facts, placing more emphasis upon some than upon others according to a judgment of their relative importance. Thus it does involve a departure from the objective attitude. It involves active support of a positive plan to improve the economic condition of agriculture." *Agricultural Adjustment*, 1937–38, pp. 238–239.

[10] *America Must Choose*, p. 32.

could possibly be undertaken here, a few facts may serve to indicate their magnitude. Over 32,000,000 copies of publications were distributed during 1940—an increase of more than 6,000,000 over the previous year. In addition, the Department's duplicating plant issued more than 150,000,000 pages of material.[11] The press service issued 1,531 press releases and copies of 523 reports; 267,000 photographs were made. It also sent 280 stories to extension editors as a part of its services, and the weekly Clip Sheet was sent to most of the newspapers of the country. Department workers also prepared 2,372 articles for papers, scholarly and scientific journals, and books.

While none of the arts of publicity is neglected by the Department, the greatest development has been in radio. The National Farm and Home Hour has been carried by 90 stations of the N.B.C.; Farm Flashes was carried by 401 stations, and 201 broadcast Homemakers' Chats. These programs are used to bring useful information to listeners and to report and dramatize the work of the Department. Radio specialists are now employed to train county agents in the art of broadcasting, and broadcasting is being extended to local communities. The motion picture is a difficult medium of publicity, but it has a definite place in the program. The Department has a separate division for the production of motion pictures, and makes them for other agencies also. Of 533 government films available in 1936, 307 had been made in the Department of Agriculture. All were available for free distribution. Of these films, "The Plow that Broke the Plains" is the most famous and had been exhibited to more than 18,000,000 people by 1936. It cost the Resettlement Administration $40,000 to produce and distribute, including the cost of return postage from commercial exhibitors.[12]

[11] It is interesting to notice what is said in the *Annual Report of the Public Printer*, 1938, p. 21, regarding these departmental duplicating plants. "I reported to Congress last year that we were making every effort to limit the work done in the departments on their so-called duplicating equipment because we considered it a direct violation of the law which requires all printing be done at the Government Printing Office. Through the department printing plants, the departments are enabled to put out more printing than that authorized by Congress, using appropriations made for purposes other than printing to operate their so-called duplicating plants."

[12] It is virtually impossible to get a complete account of the publicity activities of a single agency, much less of the federal government as a whole. This is no doubt due to the magnitude, variety, and recency of such activities and to the lack of clear accounting categories for such work. Another difficulty may be due to a statute, still unrepealed [38 Stat. L. 212, Oct. 22, 1913] which forbids the hiring of publicity experts. Some agencies have been specifically authorized by law to carry on informational services, but the shadow of this act still hangs over much of the publicity work done by governmental organizations.

The best study of the publicity work of the federal government as a whole is that

This brief review of the publicity work of the Department of Agriculture is not an effort to distinguish it from any other agency engaged in administering policies which are largely self-initiated. It is meant merely to show what the officials of the Department would freely admit—that programs administratively originated cannot possibly succeed without abundant means for persuading the public to support them. If a list were made of these federal agencies which have the most active and elaborate publicity organizations, it would include the following:[13] Department of Agriculture, Farm Credit Administration, Federal Housing Administration, Resettlement Administration, Rural Electrification Administration, Works Progress Administration, National Bituminous Coal Commission, Department of Interior, and Social Security Board.

There is one unifying characteristic of this group. Without exception, it is composed of new agencies (or of old ones with new duties) with programs which must be *promoted and explained* before they can be administered. In virtually every instance, these agencies have had to win popular approval, or at least acquiescence, for policies which the public knew little or nothing about until they sprang into being as the result of administratively-inspired legislation or of executive order.

It can hardly be denied that persuasion, or, more bluntly, propaganda, has become a regular function of government.[14] Publicity experts are be-

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by James L. McCamy, *Government Publicity* (Chicago, 1939). There are some articles of importance in various numbers of the *Public Opinion Quarterly*. Most of the data cited here with reference to the Department of Agriculture are taken from the *Senate Committee Report on Library, Information and Statistical Services*, 75th Cong., 1st Sess., June, 1937, and *Reports of the Director of Information, the Department of Agriculture*, 1932 ff. There is an interesting article by T. Swann Harding, "The Informational Techniques of the Department of Agriculture," in *Public Opinion Quarterly*, Vol. 1, pp. 83–96, Jan., 1937, and another by Alfred D. Steadman, "Public Information and the Preservation of Democracy," in the *Agricultural Yearbook for 1940*, pp. 1075–1080. *The Hearings on Agricultural Appropriations for 1940* contains a review of the Department's publicity work, pp. 116 ff.

[13] Cf. James L. McCamy, "Variety in the Growth of Federal Publicity," *Public Opinion Quarterly*, Apr., 1939, p. 389. This leaves out of account the publicity work of the various defense commissions.

[14] Based upon his experiences as an administrator, the observations of James M. Landis, in *The Administrative Process*, pp. 62–63, are of particular interest: "One factor that has received little attention from students of government is the need for the administration to give adequate and effective publicity to its achievements. In the field of policy determination, effective publicizing of the policy and of the reasons that underlie it is essential. Only in this way can policy achieve the active or, at least, the tacit acceptance of the industrial group affected. . . . Thus, if the prevailing political atmosphere is dominated by the 'big stick,' the government of the day expects of the administrative not merely heat and vigor but even more a show of heat and vigor. The big stick must be shaken by many hands, legislative, executive, and administrative. Hence the initiation of administrative action may be preceded by all the fanfare that public relations' counsel can muster."

coming as essential as lawyers and administrators. They are the skilled craftsmen who make programs successful by selecting the symbols, and even the words, which will be most effective in winning popular support. They decide what are "good" words or "bad" words, and instruct the the bureaus in their use.[15] In their hands, governmental reports cease to be dreary compilations and become endowed with "themes" to be emphasized in the public mind. The Department of Agriculture now issues its annual report under such titles as *The Soil and Men*, or *Food and Life*, while the report of the T.V.A. devotes itself to a discussion of the use of natural resources in a democracy. The picture of a smiling baby on the cover of its magazine is as deliberate a part of the Rural Electrification Administration's campaign for support as is a page of statistics. All this results from the necessities by which the government must act before foundations are formed in popular understanding or desire.

In the long run, perhaps the most serious consequence of this rearrangement of political powers is the destruction of what the political scientist calls the "neutrality" of the bureaucracy. That principle is one of the strongest barriers against social conflict. It is an expression of faith that the administration of the law will be unaffected by the heat and partisanship which its enactment involved. The bureaucracy is charged with the responsibility for taking care "that the laws shall be faithfully executed," with impartiality, without fear or favor. To that end, it is made permanent, anonymous, and politically non-responsible. But suppose the bureaucracy becomes suffused with a sense of mission, that it becomes responsible for the administration of an act of which it is also the sole originator, in the way, for example, in which the Department of Agriculture is responsible for the Food Stamp Plan.[16]

No agency, after it has originated a policy, can afford to be neutral in its administration. It is no longer an agent, it is a principal. Its first object must be to make the program "successful," for it has acquired a stake in the outcome. Its first step must be to win approval and support, and controlled publicity thus becomes an indispensable instrument for its administrative operations. This instrument is easy to forge, for, as the originator as well as the administrator of policy, the agency possesses a virtual

[15] Consider the implications of the title of an article by Charles S. Ascher. "Federal Housing Symbols Are Tiresome," *Public Opinion Quarterly*, Vol. 1, pp. 110–112 (Jan., 1937). The anxieties of the publicity experts are amusingly illustrated by the care with which, in an age of "alphabetical agencies," the Social Security Board avoids the use of its initials because of the similarity to a popular American epithet. See McCamy, *op. cit.*, p. 153.

[16] The observations of the Special Committee on Administrative Law of the American Bar Association are interesting. "In a democracy, legislation is bound to be a partisan process. It is so in Congress, and there is no occasion to be shocked that it is so of officials in the executive departments and the independent agencies to which legislative powers have been delegated." *Proceedings*, 1936, p. 735.

monopoly of information. It is unrealistic to expect it voluntarily to bring forward information detrimental to its program. Indeed, tests of agreement with policy may be made the basis of hiring personnel in even subordinate positions, as it certainly is made the basis of advancement and promotion. The T.V.A. has boldly required by law what is merely tacitly required in many other administrative agencies—that its employees shall "believe in the feasibility of its program."

One other factor which has made propaganda an essential instrument of government is the fact that the success of many current governmental policies depends upon the existence of attitudes and emotions which only propagandist appeals can arouse. This was particularly true of a number of the earlier efforts to combat the depression. The N.R.A. as economics, minus Blue Eagle patriotism, could never have been successful. The history of the F.H.A. will serve to illustrate the principle more currently. The F.H.A. was established in 1934 to combat the depression—to set in circulation vast sums of money and to start a movement of men and materials. Yet the program, on its merits, ran counter to the economic knowledge and impulses of the hard-pressed people to whom it was addressed. The government was inviting those whose current inclination was to hold on to every dollar they could get to add a new guest room or to put a new roof on the house. The reaction to the invitation was exactly what might have been expected. The reasoning that savings should be spent as an investment sure to bring the return of prosperity was not convincing. People thought it was foolish to do things, under the worst circumstances, which they had not done under much better circumstances. The F.H.A. was stillborn, and remained so for two years.

The publicity activities of the F.H.A. were then altered. It employed artists to draw pictures of "dream houses." It supplied over ten thousand mats to newspapers to use in soliciting advertisements from supply dealers, mats which showed lovely chromium and glass bathrooms, laborless, dustless furnaces, and leisurely people enjoying basement recreation rooms. People were shown rising with perfectly combed hair and smiling faces from government-added sleeping porches. Landscaped terraces with reclining lawn chairs became symbols of gracious living. The success of the F.H.A. program grew rapidly. The political implication is that a governmental policy of this kind requires an emotional, just as much as a legal and financial, basis. To provide it, the government must be prepared to utilize all the arts of propaganda.

The most casual survey of current activities makes this truth abundantly plain. The Resettlement Administration has put its program before the public with a marvelous collection of art photographs. Gaunt sharecroppers with their large families of children living in poverty-stricken one-room cabins have begun to haunt the minds and lie on the consciences of the American people. The film "The River" may give an impression actually

false as to the need and urgency of a flood-control program for soil conservation, but it has aroused attention and feeling that no amount of factual data could have done. W.P.A. makes use of every device of publicity—exhibits, dramas, radio programs, moving pictures—to arouse the sympathy of a public reluctant to support it.

That propaganda has now become an essential instrument of government is, it is claimed, an effect of a shift of power in our political system. When the nature of the policy or the character of the circumstances requires that the executive take the initiative in inaugurating policies, government by consent becomes merely a process by which a government which has been compelled to act manufactures consent for what it has done. Our old ideal of government administration as a servant, bowing to the will of the people in so far as that will could be discovered, is being drastically modified.

Perhaps one of the less apparent effects of this transformation in our political processes is a peculiar, widespread sense of political fatalism. The popular consciousness of being in control has seriously deteriorated. Polls recently showed that while 90 per cent of the public opposed the entrance of the United States into the war, an overwhelming majority believed that we would enter it. In this is a vague realization that the executive has been given enormous powers, that it can act when it sees fit, and that, having acted, there will be little choice save to accept its action and the explanation given for it.

It would be natural to suppose that, with its antipathy toward propaganda, the American public would be alarmed if it realized this drift of affairs. Two things prevent the growth of such alarm. The first is the sense of fatalism already mentioned—the feeling that the logic of events leaves virtually no political choices. The second is the discovery already made by many other peoples that living under the guidance of propaganda is not nearly so fearful in fact as it is in prospect or in retrospect. Most peoples who are controlled by propaganda never realize the extent to which they are so dominated. Only a fraction of them are genuinely unhappy about it. Actually, it is almost impossible to convince people that they *are* the victims of propaganda. It is simply the old maxim over again: what you don't know doesn't hurt you. Retrospect seems ample time for reflection.

Looked at from the long-term view, the elevation of propaganda to the position of an essential instrumentality of government ought not to be subjected to moral judgment. It is not so much a matter of choice as it is the inevitable creation of a new instrument of power, necessary and proper to carry into execution new functions of government. As in the case of every other political power, experience may show that it is both beneficial and dangerous.

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Final Report of the Attorney General's Committee on Administrative Procedure.[1] What is undoubtedly the most thorough and comprehensive study ever made of Federal administrative procedure was completed with the submission to the Attorney General, in a letter dated January 22, 1941, of the final report of the Committee named. In its investigation and report, the Committee confined its attention to those Federal agencies that substantially affect private interests by their powers of rule-making and adjudication. To the study of their procedures, it assigned a staff of lawyer-investigators, which produced 27 mimeographed monographs, 13 of which have been printed as Sen. Doc. No. 186, 76th Cong., 3d Sess. In its interim report of January 31, 1940, the Committee thus described the methods being employed in the preparation of these monographic studies: "They have involved extended interviews with officials and employees of the agencies involved, with members of the public affected, and with attorneys who have represented clients before these agencies. Members of the Committee's staff have attended numerous hearings and other administrative proceedings as observers, and have closely examined the files of the agencies to discover the methods utilized in disposing of matters arising under the various statutes and regulations. Upon the completion of these investigations, the staff has prepared for the study of the Committee a preliminary report upon each agency, discussing in detail its administrative procedures. The report has been given to the officers of the affected agency for their consideration and comment. Thereafter, the full Committee has met with the agency's officers to discuss with them the facts and problems disclosed by the report." (*Final Report*, pp. 254–255). The Committee held public hearings in June and July, 1940. In Chapter IX of its final report, it presents recommendations concerning a number of the individual agencies studied; and in Appendices B through M, it summarizes data collected on significant topics.

Conclusions and recommendations made by so distinguished a group upon the basis of so rich a background are bound to carry weight. This is so, at least, with what is presented as the area of common agreement.

[1] *Final Report of the Attorney General's Committee on Administrative Procedure.* (Washington: Government Printing Office. 1941. Pp. 474. $0.50. Also Sen. Doc. No. 8, 77th Cong., 1st Sess.) The committee was appointed on February 23, 1939. James W. Morris was later succeeded as chairman by Dean Acheson; and the Committee is commonly called the Acheson Committee. Its director was Walter Gellhorn, of the Columbia Law School, a leading authority on the law of administrative procedure. The Final Report was signed by these three and nine others: one judge (D. Lawrence Groner, chief justice of the Court of Appeals for the District of Columbia), two law deans (Lloyd K. Garrison of Wisconsin and E. Blythe Stason of Michigan), three law professors (Henry M. Hart of Harvard, Harry Shulman of Yale, and Ralph F. Fuchs of Washington University), and three other distinguished attorneys of varied experience (Francis Biddle, Carl McFarland, and Arthur T. Vanderbilt).

For it must be said at once that three of the twelve members, while accepting the major outlines of the majority report, do not regard its legislative proposals as adequate, and hence submit additional views and a proposed code of their own; and a fourth member, Chief Justice Croner, joins the other three, but considering even their code to be inadequate, summarizes recommendations that go still further.

The majority report will be examined first. After a brief Introduction, Chapter I discusses "The Origins, Development, and Characteristics of the Administrative Process." The characteristics emphasized as bearing upon procedure are size, specialization, responsibility for results, and variety of administrative duties. Size, in terms of volume of business, is clearly related to informal settlement. Responsibility for results precludes a wholly negative attitude toward issues. The variety of duties renders generalization in description difficult, and generalization in prescription still more difficult. The majority is thus on guard against over-generalization; though it asserts that to proceed toward greater uniformity is both desirable and possible. The consequence of the characteristics listed which is emphasized at this point, however, is the need for delegation. The work of an agency must, in short, be largely the work of its staff, under the direction and supervision of the agency head or heads.

Chapter II deals with "Administrative Information." In the decision of individual cases, written opinions are shown to be highly desirable. The *Federal Register* and the *Code of Federal Regulations* are far from containing all the information that should be made available. It is proposed to require by law that every agency make available and currently maintain a statement of its internal organization in so far as it may affect the public, and that all policies, interpretations of law (where adopted), rules, regulations, procedures (formal and informal), prescribed forms, and instructions for reports shall be made available. The law should also make a general but non-mandatory authorization of binding declaratory rulings.

Chapter III is entitled "Informal Methods of Adjudication." "The great bulk of administrative decisions are made informally and by mutual consent." The Committee gives an invaluable analysis of the subject, but finds that by statute or administrative interpretation thereof unnecessary restrictions are sometimes placed upon the use of informal methods.

Formal adjudication is examined in Chapters IV and V, from the standpoints first of organization and then of procedure. What is needed is not that an agency made responsible for results shall be indifferent to results, but that the agency consider fairly the facts in relation to public policy. The divorce of hearing from decision means that the hearing degenerates and the decision is anonymous. So at this point the Committee makes what is probably its major recommendation. Building on the trial

examiner idea, it would have in every agency hearing commissioners nominated by the agency and appointed or rejected by the Office of Federal Administrative Procedure, later to be described. They are to have substantial salaries established by law, and seven-year terms. Removal is to be only for malfeasance or neglectful or inefficient performance of duty, upon charges advanced by the agency or by the Attorney General upon private complaint, and after hearing by an independent trial board. This board is to be the three members of the Office or its director and two others designated by it. Agencies with five or more hearing commissioners are to have a chief hearing commissioner to supervise the hearing process and assign cases. Every case not heard by agency heads is to be heard by one or more hearing commissioners. They are to preside at pre-hearing conferences and hearings, with power to conduct the hearing and make not only findings of fact and of law but also decisions that are to be final and binding in the absence of timely appeal to or review on its own motion by the agency head. Upon certification by the hearing commissioner of questions of law, the agency head may give binding instructions or call up the record. If upon appeal the agency head makes findings that differ materially from those of the hearing commissioner, it shall explain the grounds in its decision. Careful provision is made for disqualification of hearing commissioners; and opportunity to present argument is safeguarded. The purpose of the plan is to effect internal separation of prosecution and adjudication in cases where the agency head does not itself hear and decide, and subject to appeal to it.

The majority emphasizes the importance, after formal action is begun, of pre-hearing conferences and stipulations of fact. It discusses standards of fair procedure, but opposes the enactment of an elaborate code.

"Judicial Review of Administrative Adjudication" is the subject of Chapter VI. It is rarely available to compel effective enforcement by administrators. Its function is to check excess and abuse of power in derogation of private right. Even here, it has varying degrees of effectiveness. It is to check, not to supplant, administrative action. If the court is to decide which way the evidence preponderates, the agency becomes merely a medium for transmitting the evidence to the court. The majority concludes that Congress can act effectively only with reference to particular situations, and not by general legislation for all agencies and all types of determinations.

Chapter VIII treats "Procedure in Administrative Rule-Making." The idea is rejected that because rule-making is a legislative process, its procedure should be patterned after that of legislatures. For administrative agencies are not ordinarily representative bodies. Participation of affected groups should be more widely used. Rule-making hearings are a product of the present century. The Committee approves their use where business

enterprise is directly affected in its financial aspects, but would not make the requirement invariable. To treat the hearing as adversary may be wise in some situations. Of recent statutes requiring procedures hitherto associated only with adjudication, the Committee remarks that they may produce justifying advantages if they do not create governmental paralysis. Such statutes also provide detailed judicial review. The Committee's discussion shows that this is unsound; but while saying the general application of this sort of review of rule-making is not recommended, the Committee cautiously remarks that the operation of these statutes should be watched.

Deferred effectiveness of regulations until a specified period has elapsed after their announcement is approved. It is recommended that the law defer effectiveness for 45 days after initial publication in the *Federal Register*, but with power in the agency to shorten or dispense with this delay by certification published with the regulation. The Committee definitely does not advocate a general requirement that regulations be laid before Congress after the manner of English practice or of the Reorganization Act. It does propose that the law expressly state the right of any interested person to petition for the making or amendment of a rule, and requires each agency to report annually to Congress the regulations made during the past year, together with a summary of petitions from outside that were rejected and the reasons therefor.

The proposed Office of Federal Administrative Procedure is described in Chapter VIII. Such a permanent organization was suggested by the need for dissimilarities and the possibilities for greater uniformity, together with the absence in many agencies of information or interest concerning the procedures of other agencies. The Office is to be composed of a justice of the United States Court of Appeals for the District of Columbia designated by its chief justice, the director of the Administrative Office of the United States Courts, and a director of Federal Administrative Procedure to be appointed by the president and Senate for the term of seven years at an annual salary of $10,000. Each agency on a list to be prepared by the director shall designate an adviser to the director, and shall furnish him all information he may request and all possible assistance. He is to conduct inquiries, seek to facilitate the uniform adoption, where feasible, of the most satisfactory practices, receive complaints and make recommendations based thereon, and perform with the other members of the Office its duties relating to the appointment and removal of hearing commissioners. He is to be charged specifically with the study of several problems suggested by the Committee's investigations.

These and other recommendations are included in a bill submitted by the majority. Messrs. McFarland, Stason, and Vanderbilt, however, claim that this bill falls short with respect to the separation of the prose-

cuting and judicial functions, the scope and practice of judicial review, and the need for a legislative code of fair procedure. With respect to separation, the essential demand is that adjudication be vested in an independent group. Note is taken of the plan of the President's Committee on Administrative Management. Complete separation is normally to be preferred where there are factual issues between the government and private parties, and would divide responsibility no more than it is now divided between the Department of Justice and the courts. Can there be a practical separation when prosecution and adjudication are both subject to one ultimate authority?

Separation is intimately related to judicial review. Present standards of review are haphazard and uncertain. They are unsatisfactory because arrived at by case-to-case decision. Congress should prescribe both the availability and the scope of review. It should classify types of cases and provide special degrees of review for each. Meanwhile, some general provisions are proposed for enactment. The minority is particularly disturbed by one interpretation of the substantial-evidence rule to the effect that if substantial evidence is found anywhere in the record, the court must sustain the finding, no matter how heavily countervailing evidence may preponderate. It insists that findings of fact should be set aside if clearly contrary to the manifest weight of the evidence. It proposes to enact that, regardless of the form of action, the reviewing court shall decide all relevant questions of findings, inferences, or conclusions of fact unsupported, upon the whole record, by substantial evidence.

The minority also insists upon the need for a legislative statement of standards of fair procedure. To take care of this and other inadequacies of the majority's proposed bill, it appends a Federal Code of Administrative Procedure. The departures from and additions to the provisions of the majority bill that are made in this code are too numerous even for summary here. Suffice it to say that the effort is made further to strengthen internal separation of functions and to judicialize formal administrative adjudication, as well as to generalize about judicial review. The code has explanatory annotations that point out the glaring defects of the Logan-Walter Bill. Its three proponents say, however, that they are not suggesting its enactment without hearing all agencies and considering all points of view.

The majority describes its bill as containing those of its principal recommendations that it believes susceptible of legislative treatment. It explains that it has become convinced that much of the minority's code is unrelated to facts of more than isolated incidence, and that many of its sections are inapplicable in practice to many agencies. It considers its report a better guide to administrators than the code. It points out that such a legislative effort has one of two results. If its principles are flexible, they

must be merely hortatory, or must command the obvious in situations where disobedience would vitiate administrative action without a code. On the other hand, if specific requirements are attempted, in the absence of exhaustive study, a code catches far more than was intended, and its effects are unpredictable and may be harmful. The minority code's provision for presidential suspension of its requirements upon the reasoned application of any agency and of the Office is unsatisfactory in that it forces the president to make findings the Committee is now unprepared to make.

Finally come the additional views and recommendations of Chief Justice Groner. While joining in the recommendations of the minority, he considers both the majority bill and the minority code inadequate. What, he asks, is a plan at once workable and fair? Unrestricted power of review by a wholly independent body like the Board of Tax Appeals would most likely insure impartiality; but a similar plan earlier advocated by Senator Logan was abandoned. Judicial review might be expanded to include review in the light of the weight of the evidence; but this goes against the present trend. So he resorts to recommending the greatest possible independence for the hearing commissioners. They should be appointed by the Office of Federal Administrative Procedure wholly on its own responsibility, should receive their salaries from the Office and not the agency, should be assigned cases by the Office, and should be answerable to the Office alone. Whenever on appeal to it an agency rejects findings of fact of a hearing commissioner, such action should be subject to judicial review in the light of the court's own impressions of the weight of the evidence. The approach of Chief Justice Groner is well marked by the following quoted words from his letter to the Attorney General: "The correct decision of this question is one of great importance. It should, in my opinion, be considered by Congress in the light of the real and true purposes which the founders of our government sought to achieve for themselves and their posterity. These were free action—free enterprise—free competition."

JAMES HART.

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Classification in the Federal Service, and the Emergency. *The Problem.* One of the most important government personnel problems at the present time is the increasing difficulty of securing high grade new employees for government jobs, and of retaining experienced civil servants in the face of higher salary and wage schedules in private industry. Ordinarily this would not be a particularly sore spot, because of certain advantages of government employment which might offset lower pay. However, at the present time, and especially in defense agencies such as the War and Navy

Departments, it is necessary that the best available personnel be secured for key positions so that our defense preparations may be completed as expeditiously as possible.

Although the various bureaus of the War and Navy Departments are directed by army and navy officers, most of the personnel is civilian. Practically all of the clerical work and much of the legal, engineering, and other technical work involved in writing specifications for supplies and preparing contracts is performed by civilians, who must be paid in most cases according to government pay standards established by the Classification Act of 1923 as amended. These standards fix the rate of pay for levels of duties and responsibilities and cannot be changed except by congressional enactment. In private industry, on the other hand, "prevailing rates of wages" are paid for comparable work, and these may vary as the forces of supply and demand interplay. At the present time, the demand for efficient labor of many kinds—stenographers, bookkeepers, engineers, and machinists—exceeds, or is likely to exceed, the available supply, and industrial rates of pay are going up and probably will continue to rise.

As this rise continues, and if government pay does not rise comparably, it will become increasingly hard for the government to secure competent employees, not only because of the obvious financial advantage of higher pay in private industry, but also because the cost of living may be expected to rise also, thus decreasing the amount of goods and services government salaries will buy. Employment in Washington may be especially less attractive since the cost of living promises to rise there more than elsewhere as a result of the huge influx of defense employees.

Not only are "prevailing rates of pay" in government employment necessary for an effective national defense, an efficient democracy, a career service in government, and equity, but industry would benefit directly. At the present time, industry has much to do with government employees, particularly on defense contracts. Low-grade government men, or those with less ability than the men in industry with whom they have to deal, create difficulties in production. Inefficient inspectors and writers of specifications might delay contracts, increase costs to industry, and hamper the defense effort. Clerical inefficiency or technical incompetence at the hub of defense activity can block progress all along the line.

It is quite true that many valuable men and women have come to Washington to aid in defense preparations at financial sacrifice, and there are many others who, out of a sense of loyalty and duty, would not consider leaving their government posts at this time. But thousands of others cannot afford to make this sacrifice. It is these who must be kept on their jobs in Washington and brought to Washington. Pay is an important consideration in doing so.

We can draft men for military service, we can direct materials to national defense purposes by means of priorities control, but we must still rely largely on the price mechanism to distribute the civilian man-power. Static pay-rates in government in the face of rising rates in industry is certainly not the way to direct the best clerical and technical civilian man-power into government positions where badly needed. It should be made clear that it has not been difficult to find employees; but it has not always been easy to obtain the quality desired at government salaries.

If it is agreed that it would be desirable for government pay-rates to approximate more closely rates in private industry, it may be asked, How can government rates be raised? Any attempt to answer the question must give consideration to the operation of the federal classification system under the Classification Acts.

Operation of the Classification System. Under the federal classification system, each position falls into one of five services—the professional and scientific service, the sub-professional service, the clerical, administrative, and fiscal service, the custodial service, and the clerical-mechanical service. By way of illustration, engineers fall in the professional service; typists in the clerical, administrative, and fiscal service; assistants to professional men, in the sub-professional service; and janitors fall in the custodial service. The clerical-mechanical service includes only certain positions in the Government Printing Office and the Bureau of Engraving and Printing.

Using the occupation of engineers as an example, an engineer just out of college would perform elementary work and would be classified as in grade P (professional)1 at $2,000.[1] Before he could be raised to the next higher grade, P-2 at $2,600, he would have to perform duties and have responsibilities corresponding to standards which have become established for that grade. The Civil Service Commission retains a staff of "investigators" to see that these standards are maintained throughout the federal service, since it is the purpose of the Classification Acts to establish "equal pay for equal work." All promotions of this kind must be approved by the commission.

Very few authorities criticize this system, but at the present time, when pay in private industry is rising for comparable work, the system makes it difficult for the government to compete with private industry for the best employees. An illustration may make this problem clear. Suppose the Army Air Corps wants an aëronautical engineer to work on designs for wind tunnels for testing models. They have a man in mind for the job, but must pay him $5,600 to entice him away from the position in industry

[1] Other levels are P-3 at $3,200, P-4 at $3,800, P-5 at $4,600, P-6 at $5,600, P-7 at $6,500, and P-8 at $8,000. The clerical, administrative, and fiscal service starts at CAF-1 at $1,260 and rises to CAF-16 at $9,000 and over.

he now holds. His work would therefore have to be given a rating of P-6. But, before he could be paid this salary, the allocation to P-6 would have to be approved by the Civil Service Commission. Upon investigation of the duties and responsibilities involved in this position, and comparing them with similar positions, the Commission investigator may find that the work corresponds to the standards established in P-5, which pays $4,600. Since the government can pay only $4,600, it may be impossible to obtain this badly needed employee.

The same problem would have to be faced if a government employee received a higher offer from private industry. This is not a theoretical problem, but one which is experienced every day in defense agencies, and one that may be expected to arise more frequently if rates of pay in private industry increase while government rates remain fixed. Since positions in the federal service which fall into a recognized trade or craft, such as machinists, are to a large extent exempted from the Classification Acts, the problem posed in this article does not apply to skilled and semi-skilled labor except in some instances, and it might be assumed that "prevailing rates of pay" are paid.

Solutions. In considering the possible ways out of this dilemma, little thought has been given to remedies which endanger the classification system, such as the abolishment of the system and the further exemption of positions from classification. Previous to the enactment of the Classification Act in 1923, salaries for the same work in different bureaus in a department and in different departments varied greatly. This contributed to low morale in government employment. It has been the purpose of classification to establish and maintain "equal pay for equal work" throughout the service. It is quite generally agreed that this is a worthy goal and, therefore, consideration is given here only to those suggestions for raising the pay of civil servants which operate within the classification structure.

There are three such possibilities: (1) appropriation of funds by Congress for administrative promotions within grades, (2) raising salaries throughout the government service by amending the salary schedule upward, and (3) easing classification standards upward in important defense agencies, subject to review later. These will be considered in turn.

The classification system provides for promotion within grades for efficiency and long service without regard to the duties or responsibilities of the position. To illustrate, our P-2 $2,600 engineer might not be given a promotion to grade P-3 at $3,200 because his duties are not of sufficient difficulty or responsibility, but he may be given administrative or in-grade promotions in turn to $2,700, $2,800, $2,900, $3,000, $3,100, and $3,200 within the P-2 grade.

This type of promotion would be a great help, but funds must first be

appropriated for the purpose by the Congress, and, unfortunately, in the fiscal year 1941 little has been appropriated. An appropriation by Congress for this type of promotion would be of tremendous value in granting higher pay for deserving government employees and keeping others in the federal service. A bill has recently been introduced in the Congress by Representative Ramspeck of Georgia providing for periodic pay increases for government employees with satisfactory efficiency ratings. Another, introduced by Representative Randolph of West Virginia, is similar but does not specify that efficiency ratings must be good. This legislation, if enacted, might help if the first increases were made soon.

Another method of meeting the competition of private industry for valuable employees would be the increase of the entire schedule of salaries in the government service. Two such increases have been made since the passage of the Classification Act in 1923, once in 1928 under the Welch Act, and again in 1930 under the Brookhart Act. Both revised pay schedules upward to meet the increase in salaries in private industry in the boom period. This method is probably the best one for meeting a general rise in the cost of living and a general rise in pay-rates in industry. As yet, this suggestion has not been given much consideration.

A final approach to this personnel problem in defense agencies might be a general easing of classification standards upward, subject to review when the emergency is terminated. For example, if a position is a borderline case, say between a P-4 and P-5, it might be allocated to P-5 as an emergency allocation, to make it easier to secure and to keep the personnel desired during the emergency. Since the Civil Service Commission must approve all allocations, the execution of this policy rests with the Commission, and satisfactory progress is being made along this line.

This will go a long way toward solving the most pressing cases, but for the many rank and file employees who cannot win higher grades, the appropriation of funds for in-grade promotions and the general increase of government pay-schedules would warrant serious consideration if efficient employees are to be retained and morale is to be maintained in the face of a rising cost of living and higher pay-rates in private industry.

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The Representative Function of Bureaucracy. It is possible to distinguish in the federal administrative agencies, collectively known as "the bureaucracy," a separate branch of government distinct alike from the executive and from the legislature. It is equally possible to argue that the administrative agencies, because they are the organs through which the law becomes effective and because they are at least nominally under presidential control, are parts of the executive establishment; or that

through congressional control over appropriations they are extensions of the legislature. To the extent that the bureaucracy does in fact share all of these characteristics, it becomes the instrument through which the close fusion of executive and legislative functions required by the complex nature of modern government may be brought about under a constitution committed to the eighteenth-century doctrine of separation of powers.

The power to appoint administrative personnel is an executive power, and in so far as the administrative agencies are not subject to civil service rules, they are a source of executive patronage. More important still, the programs of these agencies originate in the first instance with the executive. Yet it is Congress alone which has the power to create, modify, or abolish operating agencies, as every attempt at executive reorganization has shown. Congress controls appropriations for carrying out administrative functions, and may direct those functions in any path it chooses simply by specifying in detail the way in which funds are to be used. Even in those comparatively rare instances in which administrative agencies are created by executive order, they are still dependent upon Congress for money to carry on their work, and may have assigned to them duties quite other than those originally intended. Thus the annual budget, which is also an annual program of work, of each administrative agency represents an agreement, or compromise, between the executive and the legislative branches.

The bureaucracy in this sense is the common meeting ground of the president and the Congress, and it is also the ground on which both executive and legislative functions may be brought into direct contact with the public in its organized and institutionalized capacity. The administrative process brings the administering agency into more or less direct contact with the individuals, groups, classes, or otherwise differentiated special interests on whom the laws operate. With occasional exceptions in the case of agencies carrying out regulatory or quasi-judicial functions, this contact is mutually helpful, and results both in giving the bureau officials an insight into the needs of a special interest group and in giving to that group an appreciation of the problems of government. When the experience and insight so gained are translated into recommendations for legislation or programs of operation in the annual budget, the administrative agency is actually functioning as representative of a special interest group, for which it has become congressional spokesman.

Before the advent of modern means of transportation and communication, major interest groups in the United States remained primarily sectional, and were adequately represented in Congress. The lower house, whose members were chosen by popular vote, stood for the numerical or popular interest, while the Senate, whose members were designated by the various state legislatures, spoke with a fair degree of authority for the

economic interests which dominated the respective states. It was only with the rapid spread of industrialism coincident with and subsequent to the Civil War that representation in Congress ceased to be in effect functional. The railroad and the telegraph served to break down sectional barriers, and economic and cultural interests thereafter cut too sharply across state lines to be adequately represented on a geographical basis. At the same time, the impact of technology forced Congress to deal with the highly complex problems of a rapidly changing economic and social structure. The law-making machinery was unequal to the task, the trained expert was introduced, and executive and legislative functions tended to merge. Thus the purposes of functional representation came to be accomplished through the creation of administrative agencies.

The first special interest to acquire an official spokesman at the seat of government in this way was agriculture. For thirty years the agricultural interest had been demanding a share of that governmental bounty by which industry had grown prosperous and powerful, but it could not make its weight felt at the polls. When the Civil War, however, abruptly cut off from the Union the rich farm lands of the South, a very real shortage of food and clothing became imminent, and necessity quickly overrode the constitutional scruples of the manufacturing interest. The Department of Agriculture was created on May 15, 1862, "to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of that word";[1] and six weeks later the Morrill Act offered the states substantial grants of land, the proceeds from which were to be used "to teach such branches of learning as are related to agriculture and the mechanic arts."[2] In order to carry out its real purpose, which was to increase agricultural production as rapidly as possible, the new department enlisted the aid of science to solve the farmer's problems; and in a short time it was supplying, in addition to seeds and plants, advice and information on fertilizers, insect control, plant diseases, processing of farm products, and numerous other matters of importance to those responsible for the nation's food supply. The farmer promptly learned to carry his troubles to the Department of Agriculture, where they were turned into appeals to Congress for more money and new grants of power.

Thereafter other interests, as they were able to make good their claims before succeeding Congresses, secured departments or bureaus whose concern it was to look after their special welfare. Industrial and commerical interests, believing that they had been put at a disadvantage in comparison with agriculture, demanded an arm of government of their own, and in 1903 they secured establishment of the Department of Commerce, "to foster, promote, and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, and the trans-

[1] 12 Stat. at Large 387. [2] 12 Stat. at Large 503.

portation facilities of the United States."[3] In 1913, twenty years after the Homestead strike had shown that labor too was an interest, an independent Department of Labor was established to "foster, promote, and develop the welfare of the wage-earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."[4] The creation of this department also was a result of long continued pressure, in this case from organized labor, and its Secretary, for the first twenty years of its existence, was always a trade union official.

In addition to, or subordinate to, the cabinet departments are numerous other federal agencies whose concern, in one form or another, is with the welfare of some special interest group. The Bureau of Animal Industry, for example, came into being in 1884, under pressure from American livestock producers, for the avowed purpose of recapturing for their product the European market which they had lost through unsanitary methods. The Office of Experiment Stations was set up after more than a dozen years of agitation by the state agricultural colleges, themselves a product of earlier demands. The United States Fish Commission, predecessor of the Bureau of Fisheries, originated in the belief of the American Fish Cultural Association, a trade organization, that the supply of food fish was diminishing; and the Biological Survey, recently merged with the Bureau of Fisheries to form the Fish and Wildlife Service, grew out of the activities of the American Ornithologists' Union. Organization of the Office of Road Inquiry in 1893 was precipitated by the organized bicycle riders of America, and its later development into the powerful Public Roads Administration of today has paralleled the growth of the automobile industry. Other administrative agencies which are similarly concerned with a special interest or industry include such bureaus as the United States Maritime Commission, the Food and Drug Administration, the Bureau of Home Economics, the Grazing Service, the Bureau of Mines, the Bituminous Coal Division, the Bureau of Foreign and Domestic Commerce, the Office of Education, and many more. If childhood, youth, and old age are interests, then the Children's Bureau, the National Youth Administration, and the Social Security Board also fall within this category; and surely the unemployed, with whom the Work Projects Administration is concerned, constitute a considerable and homogeneous interest.

The relation of each of these various agencies to the industry or interest that it particularly represents may differ considerably. The function may be largely promotional, like that of the Department of Commerce; or it may be primarily scientific investigation, like that of most of the bureaus grouped under the Department of Agriculture. The agency may be purely regulatory, like the Food and Drug Administration; it may be concerned extensively with construction work, like the Public Roads Administra-

[3] 32 Stat. at Large 825. [4] 37 Stat. at Large 736.

tion; or it may serve the quasi-judicial purpose of mediation, as does the Interstate Commerce Commission. Whatever form or combination of forms the function takes, the essential fact remains that there exist within the administrative branch of the federal government numerous agencies whose concern is focused upon particular industries or interest groups, and whose function extends to recommending to Congress legislation with respect to these interests.

The history of these administrative agencies follows two general patterns, both of which emphasize the rôle of the bureaucracy as intermediary between the executive and legislative branches of the government on the one hand, and on the other the special interests of the nation—call them estates of the realm, corporations, classes, economic groups, or any other name you will. One pattern is followed in times of emergency—usually wartime—and consists in the creation of a governmental establishment for the explicit purpose of stimulating some lagging industry whose services are of crucial importance to national defense or public welfare. Such were the origins of the Department of Agriculture, of the National Advisory Committee for Aëronautics, and of the Public Works Administration—to name the most clear-cut examples. The other pattern is the well-marked one by which some powerful and well organized interest, economic or otherwise, wants a particular function to be performed, and applies pressure to Congress until a special agency for performing it is set up. Many examples of this type have already been given, including the Department of Commerce and the Department of Labor. In the first case, government goes to the interest group; in the second, the interest group goes to government. In both cases, the resulting administrative agency becomes the official instrument through which the wishes of the interest group are made known to the coördinate legislative and executive branches of government, just as it is also the instrument through which the will of Congress, with the approval of the president, operates on the interest group. This is not meant to imply, of course, that the administrative agencies are the only instruments for performing this intermediary function, nor that they have no other reasons for existence. They are, however, the only legally constituted organs our system affords through which the will of special interests may be made known to Congress and the executive. Lobbies and similar direct means, although they are frequently the means of securing a new administrative agency in the first instance, are extra-legal, irresponsible, and often vicious.

When Congress yields to external or internal pressure and establishes a new agency, it tends to shift to the agency so created responsibility for evaluating the needs of the particular interests concerned. Aside from its original purpose of supplying expert advice to deal with specialized functions, the method relieves Congress of the hazard of negotiating with

powerful economic groups which may become antagonistic if the full extent of their demands is not met, and at the same time it leaves the individual congressman free to criticize the "bureaucracy" for wastefulness, extravagance, and irresponsibility whenever the exigencies of politics seem to require it. Congress may be swayed now by one interest, now by another; but the administrative agencies, so long as their functions remain unchanged, are always concerned exclusively with the same interests. They may, therefore, come into conflict with Congress on any given occasion, and since they are completely dependent upon appropriations, they are almost literally driven to seek help in the form of pressure from those interests that they particularly serve whenever hostility to their programs develops in the national legislature. Thus congressional opposition to a farm program originating in the Department of Agriculture may be overcome by the demands of the farmers themselves, made aware of the situation in a variety of direct and indirect ways; or the Weather Bureau may secure authorizations previously denied by enlisting the support of such important consumers of weather services as the air transport industry and the navy.

The resulting tendency of administrative officers to build up political machines of their own in the process of enlisting public, which is to say special-interest, support of their agencies has often been pointed out as one of the real dangers of bureaucracy. Yet the public administrator, if he wishes to keep his bureau alive, has no other choice. His financial support and statutory permission to undertake new activities both come from Congress, and Congress pays little heed to requests for funds or legislation not backed by organized pressure groups. This very situation has led many administrative agencies, especially those with rule-making powers, to consult in advance with the interests that will be affected by any action the agency may take, and such organs as the Business Advisory Council of the Department of Commerce exist to serve this very purpose. The extent to which administrative agencies must function as representatives of special interests cannot be more clearly indicated than by pointing out that wherever these agencies have had for their purpose the serving of a public interest, like the Tariff Commission and the Federal Trade Commission, they have been helpless. Congress has failed to support their efforts, and the courts have hamstrung any accomplishments that they have achieved. The unorganized "public" has no special interest, no lobby, and for all practical purposes, no representation.

The American bureaucracy has come into being over a century and a half in response to very definite and specific needs, more often than not at the instigation of those very interests which now complain of the overgrown government in Washington. The various administrative agencies that make up the bureaucracy serve a wide range of purposes, but one of

the most important is that of supplying in some measure the functional representation which has long since ceased to exist in the legislative branch. Perhaps if this representative function were consciously and intelligently developed by administrators, and encouraged by Congress, it might prove a vehicle both for the closer integration of government and economic life, and for the elimination of some of the more glaring abuses of pressure politics.

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Organization of the Executive Branch of the National Government of the United States: Changes between November 16, 1940 and March 31, 1941.[1] As in previous lists, mention is here confined generally to units specifically authorized by law or established by the President by executive order or Reorganization Plans under general authority vested in him. Changes in units created by heads of departments or independent establishments are excluded unless of major importance.

Advisory Committee on Fire Fighting and Prevention. Appointed by the Director of State and Local Coöperation of the National Defense Advisory Commission on December 5, 1940, to study the problem of fire prevention in the defense program, to provide for development of methods and training, and to disseminate information.

Bureau of Foreign and Domestic Commerce. Reorganized by order of the Secretary of Commerce of January 23, 1941, into the five following major divisions: research and statistics; industrial economy; regional economy; international economics, and commercial and economic information.

Committee to Coördinate Relief Activities. Appointed by the President by letter to members on March 13, 1941, to study and recommend methods of dealing with the raising of funds in the United States by private agencies for use both in the United States and foreign countries. The committee consists of three members.

Division of Defense Housing Coördination. Established in the Office of Emergency Management in the Executive Office of the President by Executive Order 8632 of January 11, 1941. It is headed by a Coördinator of Defense Housing appointed by the President.

Efficiency Rating Boards of Review. One or more directed to be established in each department and independent establishment by Public No. 812, 76th Congress, approved November 26, 1940. Each board shall be composed of three members, the chairman to be designated by the Civil,

[1] Articles of this character appearing in the REVIEW prior to 1940 are listed on page 1044 of the issue for December, 1939. Later articles have appeared in the issues for June and October, 1940, and February, 1941.

Service Commission, one member by the head of the department concerned, and one by the employees of the department concerned.

Health and Medical Committee. The Health and Medical Committee established by the Council of National Defense on September 19, 1940, was transferred to the Federal Security Agency by order of the Council of November 28, 1940. All rules or activities required to be submitted to the Council of National Defense or the President, "shall prior to submission thereto" be approved by the Federal Security Administrator.

National Defense Mediation Board. Established by Executive Order 8716 of March 21, 1941, in the Office of Emergency Management to make efforts to settle labor controversies affecting national defense, to afford means for voluntary arbitration, to assist in establishing methods for resolving future controversies, and to investigate issues and formulate recommendations. The Board has fact-finding and advisory powers only, and these do not extend to disputes coming within the purview of the Railway Labor Act. It acts only after certification by the Secretary of Labor that a controversy exists. It consists of eleven members appointed by the President; three are disinterested persons representing the public, four are representatives of employees, and four are representatives of labor.

Office for Coördinator of National Defense Purchasing. Order of June 27, 1940, of Council of National Defense establishing this office revoked on January 7, 1941. All records and unfinished business transferred to the Executive Office of the President.

Office for Emergency Management. This office was created in the Executive Office of the President by administrative order of May 5, 1940. Its functions were increased by administrative order of January 7, 1941, so that they are now as follows: To advise and assist the President in the discharge of extraordinary responsibility imposed on him; to serve as a division of the Executive Office of the President, through which the President may coördinate the activities of the several agencies; to serve as a channel of communication between the agencies and the President; to maintain liaison with the several agencies; to advise the President, on termination of any emergency, with respect to measures needful to restore normal administrative relations; to coördinate the work and activities of the Council of National Defense, the Advisory Commission to the Council of National Defense, the Defense Communication Board, and the Office of Production Management.

Office of Coördinator of Health, Medical, Welfare, Nutrition, Recreation, and Other Related Fields of Activity Affecting National Defense. Created by Council of National Defense November 28, 1940, the Federal Security Administrator being designated as coördinator. The coördinator, in cooperation with the Advisory Commission of the Council of National

Defense, is to formulate and execute plans, policies, and programs in the field indicated, coördinate existing federal agencies, and establish liaison with such other agencies, public or private, as he may deem necessary or desirable. He is also authorized to appoint committees and subcommittees.

Office of Production Management. Created in the Office for Emergency Management of the Executive Office of the President, by the President by Executive Order 8629 of January 7, 1941, for the following purposes: to formulate and execute measures to increase production and insure effective coördination of the several agencies of the government; to advise with respect to plans; to make plans for an adequate supply of essential raw material; to formulate plans for the mobilization of defense facilities; to stimulate creation of additional facilities, to determine manner in which priorities shall be accorded; to serve as the liaison and channel of communication between the Advisory Council of National Defense and the Departments of War and Navy with respect to purchasing and production covered by Public Acts Nos. 667, 781, 800, and 801, and Public Resolution 95, 76th Congress; and to perform such other functions as the President may assign to it.

The Office of Production Management consists of a Director General, an Associate Director General, each to be appointed by the President, the Secretary of War, and the Secretary of the Navy.

Provision is made for the following divisions: (a) Production, (b) Purchases, (c) Priorities. There may be such other divisions as the President may from time to time determine. Each division is in charge of a director appointed by the Office of Production Management with the approval of the President.

Within the Office of Production Management is a Priorities Board composed of a chairman and three other members appointed by the President, and of the Director General and Associate Director General of the Office of Production Management. The Priorities Board shall serve as an advisory body. The Priorities Board established by Executive Order 8572 of October 21, 1941, is abolished.

Production Planning Board. Created as a unit of the Office of Production Management on February 20, 1941, to advise regarding industrial planning, both during the emergency and thereafter. It consists of nine members representing the Army, the Navy, industry, labor, and scientific research.

Under Secretary of War. Office created by Public No. 891, 76th Congress, approved December 16, 1940. The office will terminate on January 20, 1945.

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British By-Elections Between the Wars. The electoral system of Britain provides students of representative government and observers of voting behavior with a large and valuable field of investigation. The Mother of Parliaments has been elected on a democratic basis since 1918, and the constituency pattern which was rearranged after the first World War has continued down to the present time. The party picture too, although constantly changing, has not been altered fundamentally during the period. We have therefore an interesting and satisfactory span of time between the two world wars in which to examine the various aspects of British electoral institutions and behavior.

In this study I propose to describe and evaluate the by-election as one of the interesting aspects of the British electoral system. Special elections to fill vacancies occur in several other countries, but nowhere is the special or by-election the object of so much attention and discussion as in Great Britain. Not only do the newspapers carry complete stories about by-election campaigns, but the results are also commented upon in Parliament, discussed in the party clubs, and sometimes made the basis for important attacks on the Government. The *Parliamentary Debates* frequently contain remarks by members of the Government or the Opposition which attempt to give great importance to particular by-elections, or to the trend of recent by-elections.[1] This widespread discussion of by-elections has, over a period of time, caused them to become a rather important part of the whole pattern of British politics, and has made them bulk rather large in British political thinking. Herman Finer, for instance, refers to them as "invaluable periodical referenda on the action of the government."[2] Regardless of whether or not they have real electoral significance, therefore, by-elections should not be overlooked as a part of the British party process.

When it comes to studying the returns of by-elections over a long period, however, in order to ascertain their effect upon party majorities and their significance as barometers of opinion, we are dealing more with facts than with opinions. As an electoral device for consulting voters in the interim between general elections, the by-election is measurable and calculable in many of its aspects. We can thus determine whether popularly-held opinions about the by-election are borne out by the figures. Furthermore, by-elections occur so frequently and regularly that they furnish us with valuable data on voting behavior. General elections in Britain being rela-

[1] See, for instance, 132 *Parl. Debs.*, 4th series, cols. 1015 ff.; and *ibid.*, 141, cols. 160 ff., 181 ff.

[2] Fabian Tract, No. 211, p. 12. See also John H. Humphreys, P. R. pamphlet No. 83.

TABLE I. BRITISH BY-ELECTIONS—FEB., 1919, TO SEPT., 1939

Year	Number of By-Elections	Reasons for By-Election				No. of Uncontested Elections			Popular Participation in Contested Elections		Party Result					
		Death	Resignation	To Peerage	Appointed to Other Office	In Previous General Election	In By-Election	In Both	By-Election Vote Higher than in Previous General Election	By-Election Vote Lower than in Previous General Election	Comparison with Previous Contested General Election		Comparison with Constituency Pattern		Size of Vote of Winning Party[1]	
											Same	Reversed	Same	Reversed	Higher than in Previous General Election	Lower than in Previous General Election
1919	19	8	5	5	1	3	1	0	8	7	15	4	15	4	4	11
1920	24	8	3	2	11	6	2	0	14	2	17	7	15	9	4	12
1921	25	7	9	3	6	6	4	3	11	1	18	7	19	6	8	4
1922	23	10	6	2	5	2	2	5	13	1	15	8	18	5	8	6
1923	15	9[2]	3	2	1	0	0	0	9	6	9	6	11	4	8	7
1924	10	6	2	1	1	1	0	1	5	3	7	3	8	2	4	4
1925	9	4[2]	0	0	5	1	0	0	2	6	6	3	5	4	1	7
1926	14	4	6	1	3	1	1	0	4	8	10	4	10	4	6	6
1927	8	2	3	3	0	0	0	0	6	2	6	2	8	0	2	6
1928	18	9	1	5	3	2	0	0	8	8	13	5	14	4	1	15
1929	20[3]	14	2	2	2	0	6	0	2	12	14	6	16	4	2	12
1930	10	6	2	2	0	0	0	0	3	7	7	3	8	2	5	5
1931	20	12	6	2	0	0	1	1	1	17	18	2	19	1	3	15
1932	15	6	3	4	2	0	2	1	1	11	13	2	14	1	1	11
1933	16	10	2	1	3	2	2	0	3	9	14	2	14	2	2	10
1934	16	9	2	2	3	1	1	0	3	11	11	5	12	4	0	14
1935	14	5	1	4	4	1	3	3	1	6	11	3	12	2	0	7
1936	13	5	3	4	1	1	0	0	4	8	8	5	10	3	2	10
1937	26	11	6	7	2	2	0	0	0	24	22	4	22	4	2	22
1938	20	14	2	3	1	2	0	1	7	10	17	3	17	3	5	12
1939[4]	17	14	0	1	2	0	1	0	1	15	15	2	15	2	2	14
Totals	352	173	67	56	56	31	26	15	106	174	266	86	282	70	70	210

[1] In these columns, all elections which were unopposed in either the by-election or the general election were not counted.
[2] Included in this figure is one case of a member unseated by an election petition.
[3] Two seats vacant at dissolution are not included.
[4] An electoral truce was signed in September.

tively infrequent, it is interesting to observe the voting habits of the electors in those occasional consultations we call by-elections. Occasional non-voting may be quite as significant as habitual non-voting. In any case, an electorate should not be judged merely by what it does once in five years. Its occasional responses may also be revealing.

I have collected and tabulated the available figures for all of the British by-elections in the twenty-one year period between the general election of 1918 and the declaration of war in September, 1939.[3] This extensive body of figures, when classified and subjected to analysis, reveals the essential facts about the British by-election as an electoral and political device.[4]

II

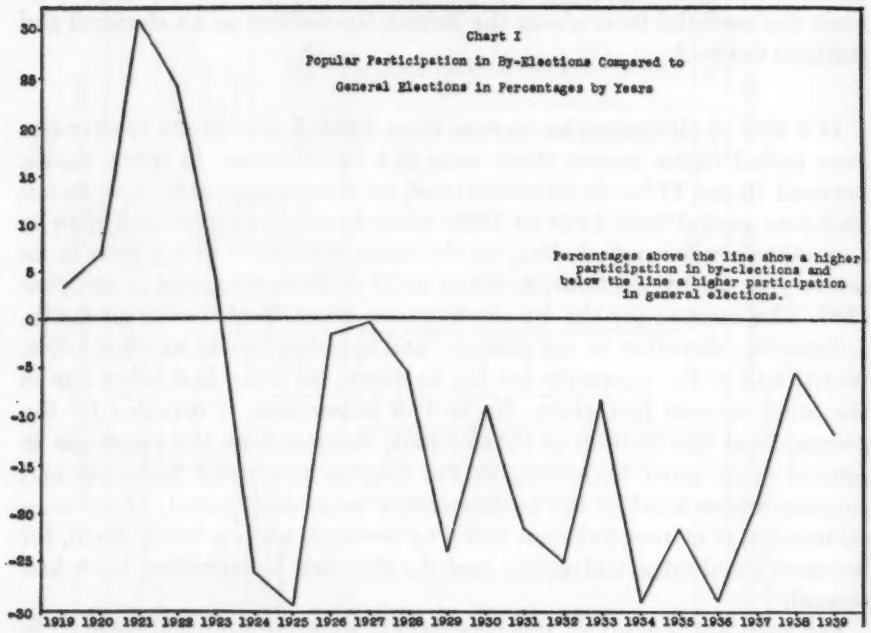
It is first of all interesting to note from Table I that in the twenty-one year period under review there were 352 by-elections. In other words, between 16 and 17 by-elections occurred, on the average, each year. In the four-year period from 1919 to 1922, more by-elections occurred than in any other similar period. But, as the table will show, every year is an active year for by-elections, as many as 26 of them occurring in the year 1937. The reasons for the by-elections are given in the table as death, resignation, elevation to the peerage, and appointment to another office. Nearly half of the vacancies are due to death, the other half being due to the other reasons just given. No fact of importance is revealed by the geographical distribution of by-elections, inasmuch as the vacancies in general occur most frequently in the English provincial boroughs and counties where most of the parliamentary seats are located. Many constituencies, of course, have not had a by-election, while a few of them, for instance Cambridge University and the Scottish Universities, have had several.

For purposes of analysis, it is necessary to separate the constituencies in which there have been contests between the parties, both in the by-election and in the previous general election, from those in which no party contests have occurred. Seventy-two such uncontested elections have taken place during the period, leaving 280 by-elections for which comparisons of voting behavior may be made.

[3] The following electoral truce on parliamentary by-elections was signed in September, 1939, by the three chief party whips: "We jointly agree, as representing the Conservative, Labour, and Liberal parties, as follows: (a) Not to nominate candidates for parliamentary vacancies that now exist, or may occur, against the candidate nominated by the party holding the seat at the time of the vacancy occurring. (b) The agreement shall hold good during the War or until determined on notice given by any one of the three parties signatories hereto." *The Labour Party, Thirty-Ninth Annual Report*, p. 19.

[4] A small sample for any given year may lead to sound conclusions, but it is always better, although much more laborious, to present complete figures.

Taking these 280 elections, we find that in 174, or 62 per cent of them, the voting participation was lower in the by-election than in the previous general election. Contrariwise, it is rather significant, I think, to find that in 106, or 38 per cent, of the by-elections, more votes were cast than in the previous general election. Through the year 1924, popular participation in by-elections was more frequently higher than in the regular parliamentary elections which preceded them. In more recent years, and quite without reference to whether the year was near to or far from a general



election, participation has been comparatively lower than in the earlier part of the period. The extension of the parliamentary franchise to women on the same basis as men in 1928 may have had some effect, for one can see by reference to Chart I that a drop in participation occurred the very next year, and no substantial revival of participation has occurred since that time. Furthermore, participation in the general election of 1923 was almost exactly the same as in the general election of 1935, while participation in the by-elections of 1935, when compared to those of 1923, is much lower.

The intensity of the party struggle and the efficiency of the dominant party organization, at any given time, appear to be of more importance in accounting for variations in participation than the factor of sex. The constituencies in which a larger vote was cast in the by-elections are more

often than not areas of doubtful party loyalty where the party balance is quite even. The Dartford division of Kent, the Pontefract Division of the West Riding of Yorkshire, Ipswich, and Walsall are good instances. In other cases, as in the Stafford Division of Staffordshire, the higher vote in the by-election is probably due more to the efficiency of the dominant party organization than to any other factor.

TABLE II. TOTAL VOTE IN BY-ELECTIONS COMPARED TO TOTAL VOTE IN PREVIOUS GENERAL ELECTIONS

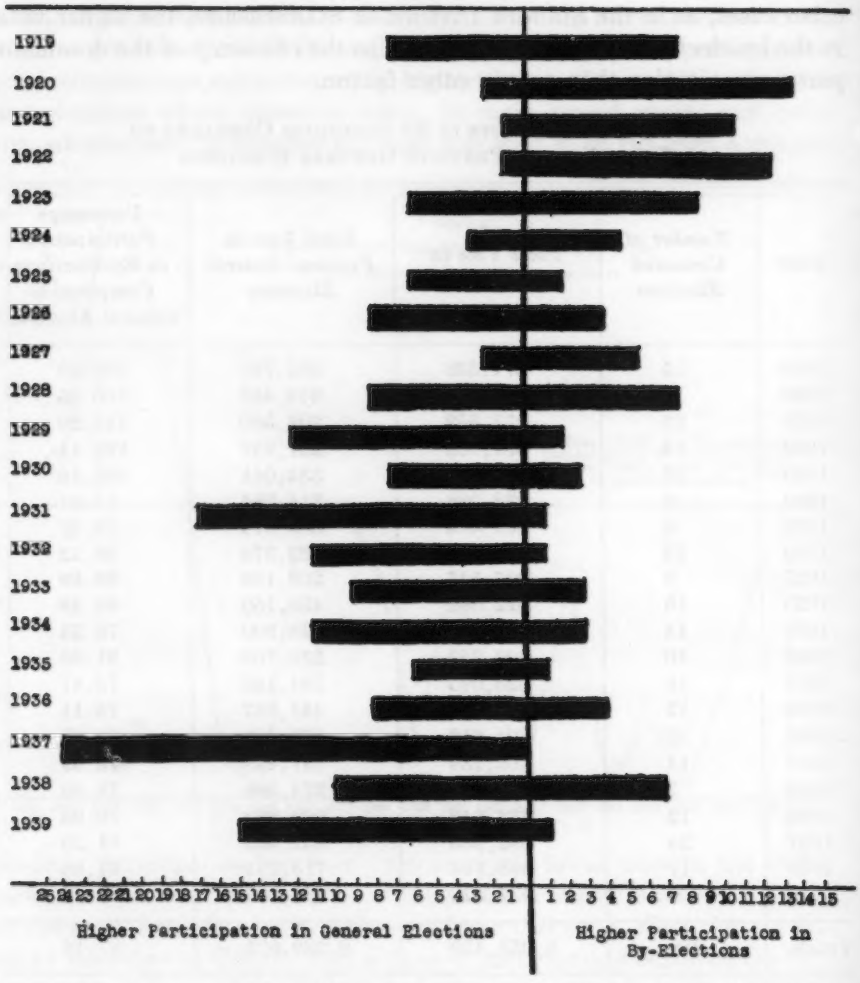
Year	*Number of Contested Elections*	*Total Vote in By-Elections*	*Total Vote in Previous General Elections*	*Percentage Participation in By-Elections Compared to General Elections*
1919	15	274,539	265,791	103.29
1920	16	371,660	348,485	106.65
1921	12	273,552	208,500	131.20
1922	14	331,762	267,237	124.14
1923	15	345,265	334,041	103.36
1924	8	232,988	314,784	74.01
1925	8	261,414	369,879	70.67
1926	12	316,978	322,379	98.32
1927	8	207,527	208,169	99.69
1928	16	412,089	436,150	94.48
1929	14	411,376	538,900	76.33
1930	10	309,352	339,709	91.06
1931	18	623,093	794,155	78.47
1932	12	343,905	457,857	75.11
1933	12	394,616	430,403	91.68
1934	14	466,739	657,449	70.99
1935	7	215,329	274,306	78.49
1936	12	432,643	609,920	70.93
1937	24	692,936	852,405	81.29
1938	17	698,164	713,291	97.88
1939	16	437,523	495,892	88.22
Totals	280	8,053,450	9,239,675	87.16

In any case, as may be seen from Chart I and from Table II, by-elections in recent years have not attracted the high popular participation which occurred in the earlier part of the period. The bar graph (Chart II), which is based on the number of elections rather than on percentages as in Chart I, shows in a different way the same decrease in participation. The unusual apathy which characterized the by-elections of 1937 appears to indicate the debilitating effect of a one-sided party situation.

Taking the voting figures for the period as a whole in the 280 contested

Chart II

Number of By-Elections with Higher and Lower Participation than in General Elections



by-elections, we find by reference to Table II that a total of 8,050,691 votes have been cast in the by-elections as compared to 9,262,434 votes cast in these constituencies in the previous general elections. In other words, there is approximately a 13 per cent lower average participation in by-elections than in general elections. Comparable figures for the United States are not available. But so far as my observation of special elections in the United States has gone, it appears that two-thirds to a half of the voters in America do not turn out for special elections as compared to the 13 per cent just presented for British by-elections.

Referring back to the last two columns in Table I, it may be seen that in 210, or exactly 75 per cent, of the contested by-elections the vote secured by the winning party candidate was lower than in the previous general election. Since, as we shall see, the same party which won the previous general election ordinarily wins the by-election also, it is natural to find that the winning party's vote is lower. A new candidate could not ordinarily be expected to draw as large a party vote in the circumstances as his predecessor. We see, therefore, not only that the total vote in by-elections is smaller than in previous general elections, but that the vote of the individual winning candidate is also lower.

III

Perhaps of more general interest than the above figures of popular participation in by-elections are the figures showing the party results of these periodic contests. If it is found that by-elections regularly follow the pattern of behavior of the constituencies in which they are held, they cannot be considered useful political barometers. Taking a small sample of by-elections in the few months following Munich, a recent writer has expressed the opinion that "the basic determinant of their outcome was obviously where they were held."[5] Let us see whether by-elections are good weather-vanes regardless of where they occur.

There are 595 constituencies in which members of Parliament are elected, a few constituencies electing more than one member. As we have seen, in more than 300 of these areas by-elections have occurred during the period under review. In order properly to compare the party results in by-elections with the party pattern in these constituencies, it is necessary to study carefully the party behavior of all of these constituencies as expressed in the election returns of the whole post-war period. British parliamentary constituencies, in fact whole areas of Britain, are quite as steady in their party allegiances as are certain areas in the United States. In connection with other studies I am undertaking, I have been able to classify all British parliamentary constituencies according to their party behavior. With this material at hand, I am therefore able to make use of it in explaining the value of by-elections as political barometers. Limited samplings might have produced the same results, but a conclusion is stronger when it is based on a large number of by-elections over a long period of time. And without knowing the party behavior of all of these constituencies, one would not be able to come to very sound general conclusions.

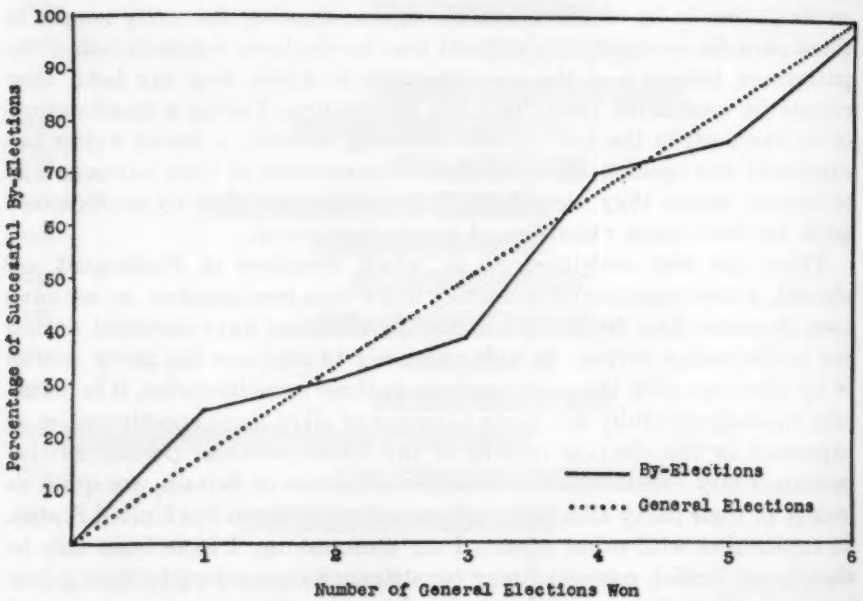
By reference again to Table I, we learn that in 266, or 75.6 per cent, of all the by-elections included in this study of a twenty-one year period, no changes occurred in the party representation of the constituencies in

[5] J. C. Sparks, in this REVIEW, Vol. 34, p. 103.

question. Three out of every four by-elections, in other words, merely register over again the results of the previous contested general election. Somewhat more striking are the following figures. Comparing the by-election results with the long-run constituency pattern of party behavior, we find that in 282, or 80.1 per cent, of the by-elections, no change in party status is recorded. To state the same important fact in another way—in only 70 out of 352 by-elections in the period between the wars have the results varied from the usual party response of the constituencies in question. Only one by-election out of five is an upset. In all the other

Chart III

Relation Between Success in General and By-Elections



instances, the by-election merely registers a foregone conclusion. The constituency organization of the dominant party might just as well have been empowered to fill the vacancy, at least so far as party representation is concerned.

The rather uniform way in which constituencies vote both in general and by-elections is shown in Chart III. Here it may be seen that the degree of success of the dominant party in by-elections corresponds closely to the degree of success in general elections. That is to say, in a constituency in which a party has won every general election since the first World War, the chances are very small that this same party will lose a

by-election. As the general party strength declines, the chance of success for that party in by-elections also declines. The correlation between the two is not exact, for the two lines do not exactly coincide. But the tendency is marked. This seems to prove that only those by-elections which occur in constituencies where party loyalties are divided are of any value as mirrors reflecting public opinion. The few reversals which do occasionally occur in by-elections may be encouraging to party organizers. But in four out of five cases, the party significance of by-elections is almost nil. As an electoral device for registering in public opinion the reactions to the policies of the Government, therefore, the by-election is a much overrated institution.

From the point of view of party organization, a case may be made out for the by-election. Such occasions give opportunity to the constituency organization to oil up and vitalize its machinery for the specific task in hand. The Central Office is in a position to give more than ordinary assistance, and the adjoining constituencies give considerable help. The by-election undoubtedly does stir up a great deal of political interest in the constituency. The area occupies the limelight for a short period, and it receives more party attention than at any other time. The by-election, too, provides the press with a whip with which to arouse political interest, even though it does also furnish the press with a peg on which to hang a considerable amount of partisan prejudice. Nevertheless, the public discussion consequent on by-elections helps to keep the electorate informed about public issues, and thus the by-election can be said to serve a good educational purpose.

IV

Recapitulating the results of this survey, we can say with some definiteness that the by-election is an interesting political device for stimulating interest in the policies of the government of the day. It also makes a contribution toward increasing the efficiency of the party organizations, and in furnishing a gauge of party sentiment in the particular constituency. As a political barometer, however, the by-election is unreliable and of little significance. If one were to select the sixty-odd doubtful constituencies in Britain and hold periodic by-elections in them, one would have the best possible test of prevailing public sentiment. But by-elections rarely occur in these areas. More frequently than not, they are held in relatively safe constituencies. Older and more experienced M.P.'s tend to gravitate toward safe seats. Vacancies are more likely to occur among this class of members of the House of Commons than among any other. Hence by-elections in these areas merely reflect changes in personnel and not changes in party or changes in the popularity of the government.

If the British democracy finds it necessary to have frequent tests of

public sentiment—and any democracy may well make provision for such tests—it should adopt some other device than the present by-election. If it understands that the present system of by-elections is based on purely fortuitous circumstances and is merely a convenient way for filling vacancies in the Commons when they occur, that is one thing. But the British public should not think, even if it now does, that the by-election is a political weather-vane.

The expense of holding by-elections could be eliminated without in any any way disturbing the relative strength of the parties. Such an elimination of an old British institution might cause some diminution in public interest. But in any case the value of the by-election is much over-rated, and one is hardly justified in using it as a reason for objecting, for instance, to the adoption of proportional representation as a system for electing members to the House of Commons. If periodic tests of public opinion are desired, they can be provided for in a more satisfactory manner than by means of a system of by-elections which uses only those areas where fortuitous circumstances have caused a vacancy.

It is true that a relatively high degree of popular interest is shown in by-elections—much higher than in the United States. It is also true that in 20 per cent of the by-elections, reversals in party strength occur. But very little reliance should be placed on changes which occur in a few local constituencies. Such areas may be poor reflectors of national sentiment. The words of Prime Minister Arthur James Balfour back in 1904 ring true today: "I do not for one instant," he said, "admit that the by-elections are a test, or ought to be regarded as a test, of public feeling. They are, of course, a test of the feelings of a particular constituency at the time the by-election takes place. They are not, and they cannot be made, the index and the test of what the feeling of the people of the country is as a whole. Any doctrine that is inconsistent with that is, in my judgment, not only wholly unconstitutional in theory, but wholly unworkable in practice."[6]

In the post-war reconstruction of British government, attention must be given to the electoral system because it is now ill-adapted to the present party situation. Perhaps at that time the British experience with by-elections, as above reviewed, will be utilized to develop a better answer to the important democratic problem of keeping the government attuned to changes in opinion.

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The Military and the Government in Japan. After fifty years of experimentation in constitutional government, Japan finds herself today on

[6] 132 Parl. Deb., 4th series, col. 1016.

the threshold of a new era of revolutionary changes. For the greater part of the past half-century, the Japanese political system functioned well. But in recent years many Western features have been found rather awkward and ill-fitting, if not actually obstructive. For some time now, the nation has been discarding many of the foreign trappings which once served so well, but are no longer worth preserving. This casting-off process has been gaining momentum steadily since 1933 and was greatly accelerated by the voluntary liquidation of political parties in July and August, 1940. Thus, a political renovation of a scope heretofore unknown is now in full swing with a new national structure rapidly taking form to meet the dynamic changes in all phases of the Empire's national life.

Undoubtedly, the most urgent problem of Japanese politics today is the synchronization of political and military functions with a view to achieving an effective total national defense system. The coördination and unification of the activities of the government and the military necessarily form the keystone of the new national structure. It is, therefore, not difficult to see why the Konoyé cabinet is now bending a large part of its efforts toward the satisfactory solution of this vexing problem.

In the West, there has developed a popular misconception that the military in Japan is entirely independent and unaccountable for its acts, and that it can floutingly disregard the government at will. Furthermore, it is assumed by Westerners that this independence is guaranteed by the national constitution. It cannot be over-emphasized that the most searching examination of the constitution will fail to reveal any provision which can possibly be interpreted as a legal basis for such an assumption.[1]

What obtains in practice is the separation of strictly military functions which come under the category of the "supreme command" from the civil functions of the state. Several high ranking generals and admirals enjoy direct access to the Emperor as participants in the supreme command.[2] This system is based on the theory that the power of supreme command belongs to the Emperor and that he exercises this personal prerogative as the military head, and not as the political head, of the state. It must not be assumed, however, that there has always been a separation of the supreme command from government and military administration. For a decade after the establishment of the Meiji government in 1868, there

[1] Only two articles in the constitution pertain to the military. Article XI merely states: "The Emperor has the supreme command of the Army and the Navy." Article XII reads: "The Emperor determines the organization and peace standing of the Army and the Navy." Neither article guarantees independence of the military.

[2] Those who enjoy direct access to the Emperor are: chiefs of staff of the Army and the Navy, supreme war councillors, field marshals and fleet admirals, inspector general of military education, inspector general of military aviation, war and navy ministers, commanders of army divisions and army corps, and commandants of naval stations and fleet commanders.

was no separation in the exercise of civil and military functions.[3] At the time of the Saga Rebellion in 1874, Toshimichi Ōkubo, who was state councillor and home affairs minister, was invested by the government with full military powers for the purpose of restoring peace and order. Even during the Satsuma Rebellion three years later, powers of military command were actually in the hands of the same civilian official, Ōkubo. The creation of the General Staff Office on December 5, 1878, by an imperial ordinance, marks the beginning of the separation of military command from military administration as well as from general state administration. With the reorganization of the General Staff Office on March 18, 1886, a complete separation was achieved.

Needless to say, the relationship between the military and the government in public law is by no means clear.[4] However, as a result of practice over a period of years, the military maintains a position of independence from the government in strictly military functions of non-administrative nature.[5] Thus, the cabinet does not assist in the exercise of the Emperor's personal prerogative of the supreme command, as can be observed from Article 7 of the Law for the Organization of the Cabinet (Imperial Ordinance No. 135) of December 24, 1889, and revised in 1907 (Imperial Ordinance No. 7), which reads: "With the exception of matters pertaining to military secrets and military command which, having been reported directly to the Emperor [by the Chief of Staff], may be submitted by His Majesty to the Cabinet for consideration, the Ministers of State for War and the Navy shall report to the Minister President."

No delimitation of the scope of the supreme command has yet been worked out. However, military and naval operations and strategy, internal organization, education, and discipline of the armed forces fall properly within the scope of the supreme command and are governed by military ordinances which possess binding power only on the armed forces, and therefore do not require cabinet deliberation and approval.[6] In these

[3] I. Watanabé, "Tōsuiken Dokuritsu no Shiteki Kōsatsu," *Kaizō*, Sept., 1940, p. 22.

[4] See T. Minobé, "Waga Kokuhōjō ni okeru Gumbatsu to Seifu to no Kankei," *Kaizō*, June, 1930, pp. 19–26. Also S. Sasaki, *ibid.*, p. 109.

[5] The following are some of the important organs of the supreme command which are independent of the government because of their purely military functions: General Staff Office, Naval Board, Office of the Grand Chamberlain, Board of Field Marshals and Fleet Admirals, Supreme War Council, Wartime Imperial Headquarters, Army Corps Headquarters, and Fleet Headquarters.

[6] Education in the navy is placed under the jurisdiction of the navy minister, who supervises the Naval War College, whereas, in the army, the Army War College is under the inspector general of military education. Thus there is a difference between the army and the navy with regard to educational administration. Penal administration in the armed services is considered a general state function, but the court martial is entrusted with carrying it out.

matters, the exclusive competence and complete independence of the military have never been seriously questioned.

Practically all of the difficulties between the government and the military have arisen in the periphery of the supreme command, in those matters which, because of their bearing upon general national policies as well as the rights and duties of the people, require cabinet deliberation and approval. All policies of national defense thus come under the jurisdiction of the cabinet. Such matters as external organization of the armed forces, conscription of men and materials, mobilization of troops, proclamation of martial law, appointment and dismissal of army and navy personnel, and military operations which may affect foreign relations fall within the competence of the cabinet.[7]

Disagreements in the field of policy-making occur repeatedly within the cabinet because the ministers of war and navy have a dual status. They are at once the representatives of the armed forces in the cabinet and *ex officio* participants in the supreme command. In the former capacity, they are civilian functionaries, while in the latter, they are military officials.

What factors are responsible for the favored position of the military in national affairs? The most apparent source of military strength and prestige, too often over-emphasized in the West, is the legal one. There are several other factors which are far less conspicuous but much more deep-rooted and potent. Tradition, nurtured over a period of some seven centuries of feudalism, has contributed, more greatly than generally assumed, to the moral position of the present-day military. Bushidō, with its time-honored ideal of loyalty, justice, benevolence, and self-effacement, constitutes a vital force in the military tradition, and since it is shared by the people as a common heritage it serves as a strong bond between the armed services and the general public. Since the army and navy have been, in many ways, the most powerful equalitarian force and the champion of the underprivileged, they have always had a strong hold on the people.

Add to this advantageous moral position another factor, the inexorable forces of history which started with the opening of the country in 1854. Japan found herself, then, in the midst of an ever-rising tide of world imperialism and nationalism, and dangerously close to becoming completely engulfed by it. Her precarious existence for the next half-century was made possible partly by the sufferance of Western powers impelled by imperialistic rivalries rather than by international comity, and partly by her grim determination to preserve herself by military strength. Her

[7] In actual practice, a decision is first reached in a conference of the supreme-command organs, including the Supreme War Council and the war or navy minister, who submits the proposal of the military to the cabinet for deliberation and decision. If approved by the cabinet, it is referred to the Privy Council by the Emperor for advice before it can become a law.

national security was advanced and her position in the family of nations greatly enhanced each time by a successful participation in a foreign war: the Sino-Japanese War of 1894–95, the Boxer Rebellion of 1900, the Russo-Japanese War of 1904–05, and the World War of 1914–18. Japan's recognition as a world power came only as a result of successful wars; her peaceful cultural achievements received scanty attention, if any, from the Western powers. This attitude on the part of the West has had a salutary effect on the prestige of the military. It also made the Japanese people realize more than ever the importance of military might, and thereby gave new impetus, if not a stamp of approval, to their centuries-old military tradition.

It would be erroneous, however, to assume that the military has always enjoyed great power and prestige. Its prestige has always fluctuated in response to international as well as domestic conditions. There was a time when, in the early 1870's, the brilliant minds of the army and the navy were perfectly content to devote their energies to civilian activities such as law codification, local administration, education, and police administration, showing little interest in politics because the military then had little influence or prestige.[8] More recently, in the 1920's, when the trend toward world-wide disarmament was strongly felt in Japan, the military was completely eclipsed by the political parties, which were definitely in their ascendancy.[9]

That the strength and position of any group in the body politic can be understood only in the light of power relationships existing between it and the other component parts needs no emphasis. In appraising the military in the 1930's, due consideration must be given to the relationship between it and the political parties, and to a lesser extent and indirectly, the capitalists.

It must be remembered, too, that the constitution imposes a political disability on the members of the armed forces by depriving them of the right to vote as well as the right to run for office. Members of the armed forces cannot participate in political activities. Expression of political views in public in any form, spoken or written, is a criminal offense under the Army and Navy Penal Laws.[10] Consequently, participation in national

[8] Generals Akiyoshi Yamada, Aritomo Yamagata, and Iwao Ōyama were engaged in law codification, local administration, and police administration, respectively, while Admiral Tsugumichi Saigō was active in the Ministry of Education. See S. Miyaké, "Gumbatsu Gaikō no Seibai," *Chuō Kōron*, Apr., 1919, pp. 75–80.

[9] Beginning in 1922, able party men relentlessly assailed the independence of the supreme command on the floor of the Diet. Ikuzo Ōoka, who made a speech in the Diet on Feb. 7, 1922, was one of the earliest men to criticize the army. In the 45th Diet (1922), a bill to permit civilian appointments to the army and navy portfolios was passed in the lower house, but failed to become a law.

[10] Penalties are provided for in the Army Penal Law (Law No. 46, 1908), Arts. 103 and 104, and the Navy Penal Law (Law No. 48, 1908), Arts. 104 and 105.

affairs is possible only indirectly through the war and navy ministers, who are the legally constituted channels through which the army and navy may be heard. The tremendous importance of the war and navy ministers thus becomes quite evident.

The ten years beginning in 1931 have been, for Japan, far and away the most eventful decade in the twentieth century. It was a period replete with rapid and turbulent changes, critical problems, and difficult international situations. Ten cabinets rose and fell, and an eleventh was, at the end of 1940, leading the nation through a series of domestic and international crises fraught with gravest perils. Since the outbreak of the Manchurian Incident on September 18, 1931, the influence of the military in Japan's national affairs has been all too evident. The assassination of Premier Inukai on May 15, 1932, marked the death-knell of the political parties as an influence in national affairs, and the army thereafter took over its present position as the powerful "driving force" in Japanese politics.

It is apparent that the rise of the military power was assisted by a multitude of factors, especially economic and political. In the wake of the world depression of 1929, two dire consequences stood out conspicuously above all others: the debris of economic catastrophe and the unsavory record of political corruption. Too long had the political parties been preoccupied in a struggle for power among themselves, and now, in a critical moment, they did not possess the courage or the strength to alleviate economic difficulties; the bureaucrats were too weak and impotent to be effective.[11] Meanwhile, the people were desperate, and were willing to follow the leadership of any group that offered promise of relief. The army, which had long been smarting under the humiliating treatment accorded it by the political parties, now rose to retrieve its lost power and prestige and, at the same time, sought to bring relief to the people, particularly to the farmers and operators of small business and industrial enterprises who were writhing under a crushing economic burden of heavy taxes and insolvent perennial debts.

What served practically as the curtain-raiser for the military was the signing of the London Naval Treaty in 1930, which stirred up a storm of controversy between the Hamaguchi cabinet and the Chief of the Naval Staff. Ostensibly, the dispute was on the alleged encroachment upon the supreme command by the government, but in reality it was the beginning of a decisive contest between the political parties and the military. Events of far-reaching political consequence followed in rapid succession. The government incurred the vigorous opposition of the navy and enraged public opinion for signing and ratifying the treaty; a heated constitutional argument developed; and a series of political crises was precipitated. For

[11] For an appraisal of the political parties in the 1930's, see Chitoshi Yanaga, "Recent Trends in Japanese Political Thought," *Pacific Affairs*, June, 1940, pp. 130–131.

pushing through the ratification of the treaty, Premier Hamaguchi paid dearly with his life in August, 1931.[12]

Feeling continued to run high, and on May 15, 1932, Hamaguchi's successor, Premier Inukai, fell victim to a group of super-patriots comprising a preponderance of junior navy officers and army cadets. This was the first of a series of attempts by extremist groups calculated to bring about by an act of violence the downfall of the government as well as of the groups in power. The Blood Brotherhood League, closely associated with young naval officers, also made an unsuccessful attempt to liquidate the old influences, such as the political parties, financiers, and the privileged classes, including the palace advisers.[13] Another unsuccessful attempt to change the complexion of the government by violence was made in July, 1933, by the Godsent Troops (Shimpeitai). This plot was perhaps the most ambitious one, for the entire Saitō cabinet was to be annihilated by an aërial bombing of the Premier's residence while a cabinet meeting was in progress on July 11.

Mounting dissatisfaction among the extremists of the army and the rightists reached its climax in the most violent explosion of all, the February 26 incident of 1936, which was a "mutiny" led by a young army captain. Three key men—Lord Keeper of the Privy Seal Viscount Saitō, Inspector General of Military Education Watanabé, and Finance Minister Takahashi—were assassinated, while attempts on several others were unsuccessful.[14] In its conception and execution, the plot fell short of a *coup d'état* from the very outset; it was not intended to be a revolution, or even a setting up of a new cabinet of the conspirators' own choice. It was a direct action resorted to by a section of the extremist faction of the army and, at the same time, symptomatic of the general feeling of unrest which permeated the nation in consequence of socio-economic ills and maladjustments. Army authorities regarded the incident as an unpropitious affair and promptly took steps to correct and prevent conditions which gave rise to it.

Ever since the Manchurian Incident of 1931, the army has been in the limelight, and from 1932, beginning with the Saitō cabinet, the political parties, the bureaucrats, and even the palace advisers, could not ignore

[12] His death, which resulted from wounds received at the hands of an enraged assailant in Nov., 1930, foreshadowed the eventual collapse of the parties and the triumph of the military.

[13] Among those marked for assassination were Prince Saionji, Prince Tokugawa, Privy Seal Count Makino, Count Miyoji Itō; party leaders such as Suzuki, Tokonami, Wakatsuki, and Shidehara; financiers like Mitsui, Iwasaki, Sumitomo, Yasuda, Ikeda, Goh, and Kagami.

[14] Those who escaped assassination were Premier Okada, Prince Saionji, Count Makino, Grand Chamberlain Admiral Suzuki, and several business and financial leaders. Some 1,400 troops of the 1st and 3rd Infantry Regiments of the First Division were involved.

the power of the military, increasing rapidly under stress of domestic and international crises. The army has taken the initiative in proposing reforms, consistently and persistently, in every phase of national affairs. Its views and policies are revealed most clearly in a pamphlet issued by the press section of the War Ministry on October 10, 1934, entitled "The Essentials of National Defense and Proposals for Its Strengthening" (*Kokubō no Hongi to Sono Kyōka no Teishō*). It strongly deprecates the capitalistic system of free enterprise, in which ruthless and selfish pursuit of profits has led inevitably to an ever-widening gap between the rich and the poor, and which has created and aggravated class consciousness, if not actual class cleavage. It points out that while the total national wealth has been greatly increased under the system, unemployment and distress have increased also; the middle class has declined rapidly; the small business and industrial operators and farmers have been plagued with insecurity; and the orderly structure of the nation has been threatened by the weakening of its foundations. Rigid state control of national economy, together with an effective curbing of large accumulations of wealth, full development of the nation's natural resources and man-power, the "stablization of national livelihood," and a more effective development of national education and spiritual training in the interest of the nation constitute the avowed objectives of the army, whose ideology is anti-*laissez faire*, anti-individualistic, anti-communistic, and strongly socialistic.

Coalition cabinets which came into existence successively, beginning with the Saitō cabinet in 1932, were impotent and dominated by the army. Foreign policies were formulated on the basis of the army's recommendations; the size of the national budget was determined by the amount of military expenditures; and various domestic administrative reforms were attempted at the suggestion, if not at the insistence, of the army.

The voice of the army was particularly strong in the Hirota cabinet, formed in 1936 immediately after the February 26 incident. Hirota spent five days completing his cabinet, and succeeded only after he had reconsidered his choices for some of the posts in order to obviate army opposition. Then, too, he found it necessary to announce promptly a general policy of political renovation, outlined on August 25 by the cabinet as its seven cardinal policies.[15] On January 23, 1937, Hirota could not save his

[15] The seven cardinal policies of the Hirota cabinet were:

1. Realization of adequate national defense.
2. Renovation and improvement of education.
3. Adjustment of national and local taxation.
4. Stabilization of national livelihood.
   a) Extension and perfection of health facilities.
   b) Rehabilitation and promotion of rural economy, and encouragement of middle and small scale business and industry.
5. Expansion of industries and foreign trade.

cabinet from collapse when the army could not be placated. Two days earlier, Kunimatsu Hamada had made a speech in the Diet which was critical of the army. The war minister took umbrage and vigorously protested on the ground that its tone was insulting to the army, and promptly tendered his resignation.

An even more convincing demonstration of the power of the army took place in 1937 after the downfall of the Hirota cabinet. General Kazushigé Ugaki, designated by the Emperor to form a cabinet, struggled unremittingly for days to overcome army opposition, only to find his efforts in vain. Ugaki was *persona non grata* to the army, for, as war minister in the 1920's, he had been responsible for scrapping four army divisions—an act strongly resented by young army officers as being arbitrary and even dictatorial in the method used. Furthermore, in the opinion of the army, he was too close to the political parties, especially the Minseitō. General Hayashi, who formed a cabinet after General Ugaki abandoned his attempt, encountered no difficulty whatever, since he was acceptable to the army. It is interesting to note, however, that although the birth of the Hayashi cabinet was an indication that army views had prevailed, the Premier publicly pledged himself to maintain the parliamentary system of government "in strict conformity with the letter and spirit of the constitution."

Time and again it has been demonstrated that the military can make or break a cabinet. The ordinances for the organization of the Ministries of War and Navy, as revised May 18, 1936, require that ministers and vice ministers shall be appointed from among the generals and admirals on the active list.[16] It was in 1900 that the second Yamagata cabinet originated this active status requirement. Until then, there was no specific requirement of any sort; indeed, Admiral Tsugumichi Saigō, navy minister in the second Itō cabinet held concurrently the war portfolio, and General Iwao Ōyama, war minister in the first Itō cabinet, was concurrently navy minister. In 1913, the first Yamamoto cabinet dispensed with the active service requirement, enabling officers on reserve and retired lists to become service ministers. This was done at the suggestion of Home Minister Takashi

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a) Strengthening of control of electric power.
b) Self-sufficiency of liquid fuel and steel.
c) Assistance and control of foreign trade.
d) Encouragement of aviation and ocean transportation.
e) Encouragement of overseas settlements.

6. Firm establishment of major policies regarding Manchukuo, including emigration policy and encouragement of investments.
7. Revamping and improvement of administrative machinery.

[16] Enacted as Imperial Ordinance No. 63 and No. 64 for the Army and the Navy, respectively, under date of May 16, with the countersignature of the Premier and the ministers of war and navy, and effective May 18, 1936, the date of publication in the *Official Gazette*. See *Kampō*, May 18, 1936. No. 2810, p. 509.

Hara, a Seiyūkai party man. Army opposition to this change was vigorous but ineffective in the face of strong pressure from the political parties and from the Premier, Admiral Yamamoto. The present laws are a reversion to the original requirement of 1900, and were enacted by the Hirota cabinet in response to strong army demand. Consequently, they preclude the possibility of civilian appointments. And further to strengthen the position of the army, there has developed a practice since 1913 of determining matters of personnel administration such as appointments, assignments, promotions, and transfers of general officers in a conference of the war minister, the chief of staff, and the inspector general of military education. Since only an active general officer is eligible for the post of minister or vice minister of war, the Premier is at the mercy of the "big three" of the army, who can demand and obtain conditions as a *quid pro quo* for recommending a candidate for a portfolio.

For the first time since 1936, army influence, which not infrequently appeared to be inordinately exercised, was surprisingly unobtrusive when the Yonai cabinet was formed in January, 1940. This was prematurely hailed in some quarters as an indication that the army was relinquishing its strong position of leadership. Six months later, however, the army took an uncompromising stand. War Minister Hata tendered his resignation on July 16 with the curt announcement that his action was based on "the necessity of renovating the domestic political structure in consonance with the existing world situation." The Yonai cabinet was left with no alternative but to resign collectively, since the army was not disposed to furnish a successor. This was the latest in the series of cabinet shifts precipitated by the army, and virtually marks the beginning of the new national structure under the aegis of the Konoyé cabinet.

In the formation of the second Konoyé cabinet in July, 1940, the army reversed its attitude, openly expressing approval and assuring full coöperation.[17] There were several reasons for this change of attitude. First, and most important, was the fact that Prince Konoyé was thoroughly acceptable to the army, as to all other groups and factions, because of his dignity and position as well as his unimpeachable record of fairness and non-partisanship. Second, and highly significant, was the disappearance of political parties, which had long been the avowed enemy of the military. This unexpected development may yet change the attitude of the military so completely as to eliminate the long standing difficulty between the supreme command and the government. Third, the strengthening of the traditionally weak cabinet gives promise of a powerful executive which will bring about administrative efficiency that has been conspicuously absent for years. The army is watching with growing satisfaction the realization of a national structure capable of providing an adequate and efficient national defense system. Fourth, there is apparent among army

[17] *Tokyo Asahi Shimbun* (evening edition), July 20, 1940, p. 1.

and civilian leaders a strong conviction that national defense predicated upon total warfare can no longer be achieved with military strength alone. Naturally, the army is showing a willingness to work almost hand in glove with the government for the solution of difficult national problems.

Recently, the army has come to be invested with extensive powers in the formulation and execution of Asiatic policies, not only because it is felt that Japan's destiny lies on the continent, but also because her very existence may well depend upon the conditions prevailing there. Since the creation of the Manchurian Affairs Bureau, the war minister has served concurrently as its president. The commander-in-chief of the Kwantung Army is the Japanese ambassador to Manchukuo, whose well-being is believed to be interwoven inextricably with Japan's. The powerful China Affairs Board, headed by a general, has been entrusted with the important function of policy-making with reference to Japan's relations with China.

All the ideas and policies espoused by the army are based on and governed by one central point, the inescapability of total warfare. Consequently, the achievement of a total defense system has become the national goal. The establishment of the National Total War Research Institute on November 1, 1940, is of more than passing interest. The noteworthy achievements of the army in domestic affairs in the last few years have been motivated by anxiety for national security. The Planning Board, which is entrusted with the task of planning, synthesizing, coördinating, and controlling national policies, is undoubtedly one of the most outstanding achievements sponsored by the army. No less important was the creation in 1939 of the Welfare Ministry, which has since become one of the most important departments in the promotion of national welfare. Social legislation has been accelerated as never before, and the general welfare of the people has been receiving large attention since 1936.

As a corollary of total defense efforts, coördination between various administrative offices and agencies is being materialized rapidly for the sake of efficiency. As part of this program, the number of commissions and boards has been materially reduced. On July 19, 1940, at the conference of four ministers, the premier, the foreign minister, the war minister, and the navy minister, it was agreed unanimously that a rational adjustment in the relationship between the supreme command and general state functions should be effected speedily for the purpose of coördinating war and defense efforts with national administration. It is significant that the six-point program of the Konoyé cabinet adopted on July 26 represented in essence these coördination efforts between the government and the military. Practically all the major policies advocated by the army since 1936 were incorporated in it.[19] Simultaneously with the coördination

[19] The six-point program of the Konoyé cabinet is as follows:

1. Establishment of a "national defense state."

efforts, Prince Konoyé has begun to evolve a stronger cabinet. Several innovations have already been made to this end. An imposing cabinet council of ten members was created, on October 3, to advise the cabinet in national affairs and foreign relations.[20] On October 13, a highly centralized cabinet information bureau was organized, giving the government virtually a Ministry of Information.

Since the quasi-independent position of the military is not based on any constitutional provision, to change its legal status does not entail too great a difficulty. However, in the present state of affairs it is most unlikely that any such change will be attempted. Furthermore, the cabinet and the military are beginning to see eye to eye in national problems, particularly in the basic policies of national defense. Consequently, coördination between the government and the supreme command has been greatly facilitated and is being worked out in a very informal manner. For instance, the Imperial Headquarters Liaison Conference, an informal and extra-legal method used for the first time by the first Konoyé cabinet, has been revived. An even more informal method was initiated in the form of a round table conference (*kondankai*) of the cabinet and the supreme command group which met for the first time on November 28.[21] In the newly organized all-embracing political structure known as the Imperial Rule Assistance Association, the army and the navy are represented on the important advisory council by the vice ministers and directors of the military and naval affairs bureaus. These recent developments all point to closer coöperation, collaboration, and coördination.

Premier Konoyé has expressed his conviction that the problem of coordination between the government and the military is not one of machinery or organization, but rather one of satisfactory relationship between men comprising the cabinet and the camp. It would not be surprising, therefore, if the supreme-command issue were to be settled by the adjustment of personnel relationship rather than by formal, legal changes. It is very likely, too, that national defense requirements will minimize, if not actually liquidate, this vexatious problem, which, in the past, has stood ominously in the path of party government.

CHITOSHI YANAGA.

University of California.

2. Establishment of autonomous diplomacy in East Asia.
3. Establishment of an East Asia economic bloc comprising Japan, Manchukuo, and China as a single unit.
4. Establishment of a new national structure.
5. Revamping of education.
6. Revamping of foreign trade and transportation policies.

[20] The members are General Senjūro Hayashi, Admiral Kiyotané Abo, Chuji Machida, Fusanosuké Kuhara, Chikuhei Nakajima, Kenzō Adachi, Kazue Shōda, Seihin Ikeda, Baron Seinosuké Goh, and Kōzui Ōtani.

[21] *Tokyo Asahi Shimbun* (evening edition), Nov. 29, 1940.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Dr. Rudolf Holsti, former foreign minister of Finland, will return to Stanford University in 1941–42 as acting professor of political science.

At Stanford University, Professors Philip W. Buck and Charles Fairman have been promoted to full professorships, and Dr. John W. Masland to an assistant professorship.

Professor Herman Finer, of the London School of Economics and Political Science, gave a course on "Comparative Administration in Wartime" at the University of Chicago during the spring quarter, 1941, and in addition gave a series of public lectures on the same topic. Professor Finer has recently published a book on municipal trading in Great Britain.

Four lectures were delivered by Commissioner Arthur S. Flemming, of the United States Civil Service Commission, at the University of Chicago during April. The general subject was "Civil Service Administration in a Period of Crisis."

Dr. F. F. Blachly, of the Brookings Institution, and Professor E. Allen Helms, of Ohio State University, will be visiting members of the department of political science at the University of Illinois during the 1941 summer session.

The annual Edmund J. James Lecture on Government at the University of Illinois was delivered on March 12 by Dr. Hu Shih, Chinese ambassador to the United States. His subject was "Historical Foundations for a Democratic China."

Professor George C. S. Benson has resigned his position at the University of Michigan to accept a professorship at Northwestern University.

Professor Edward Mead Earle, of the Institute for Advanced Study, Princeton, has recently returned from an extended trip to the American naval and air bases in the Caribbean region.

Professor Charles C. Rohlfing, of the University of Pennsylvania, has been appointed to the Motion Picture Panel of Arbitrators under the United States Supreme Court consent decree.

Professor Lashley G. Harvey, of the University of New Hampshire, has become executive secretary of a newly formed New Hampshire Municipal Association.

Professor H. S. Quigley, of the University of Minnesota, gave an address on "America's Program in the Pacific" at the Northwest Conference of the International Relations Clubs at Caldwell, Idaho, held on March 21 and 22.

Professor E. M. Kirkpatrick, of the University of Minnesota, was one of the speakers at the annual conference of the North Central Division of the Iowa State Teachers' Association at Mason City, Iowa, March 20–22.

Mr. Ira Polley, teaching assistant in political science at the University of Minnesota, has been awarded a Social Science Research Council predoctoral field fellowship for 1941–42.

At the University of Washington, Professor George E. Taylor, who conducts courses in political science, and who is also head of the department of Oriental studies, has been advanced to a full professorship.

Professor Paul A. Palmer, of Kenyon College, has been appointed acting associate professor at Stanford University for the year 1941–42, and will offer courses in political theory.

During the second term of the coming summer session, Professor W. Brooke Graves, of Temple University, will offer courses on state government at the University of Texas.

A short course on civil service law and procedure, and another on police administration, were directed by Professor Harvey Walker at Ohio State University in March.

Professor Joseph S. Roucek, of Hofstra College, led a round-table on "World Revolutionary Forces," at the Northwest Institute of International Relations, held at Reed College June 15–25, and will serve as visiting professor of social sciences in the summer session and post-session of San Francisco State College.

Dr. Gordon Skilling, of United College, Winnipeg, Canada, has been appointed to an assistant professorship of political science at the University of Wisconsin, and, aside from a new course on Canadian government and politics, will devote his time to courses on international relations.

Dr. Carl H. Schaaf, of the Richmond division of the College of William and Mary, has accepted an appointment for the summer as research consultant in the division of the budget of the state of Virginia.

Professor Thomas S. Barclay, of Stanford University, will teach during the summer session at Cornell University; Professor Philip W. Buck will offer courses in both the University of California at Berkeley and the

Western Summer School for Workers; Dr. John W. Masland will participate in the Institute of International Relations at Mills College; and Professor Graham H. Stuart will teach in the summer session at the University of Utah.

Professor Ford P. Hall, of Indiana University, has been appointed acting director of the Indiana State Bureau of Personnel. He will continue in this capacity until a director is selected under the State Personnel Act passed during the recent session of the Indiana General Assembly. He also acted as technical adviser to the Indiana Merit System Association which successfully sponsored merit legislation at the last session of the legislature.

The catalogue of the University of Washington for 1941–42 announces a new major in Pan-American studies for undergraduates, under the general direction of Professor H. B. Densmore, chairman of General Studies. The departments of economics, geography, history, political science, and Spanish are coöperating in presenting a number of relevant courses. Professor Linden A. Mander is in charge of the political science offering.

A meeting of the Pacific Southwest Academy, held at Los Angeles April 18, was devoted to the general subject of "Los Angeles: Preface to a Master Plan." Professor Raymond G. McKelvey, of Occidental College, served as program chairman.

At its meeting of April 5–6 in Columbus, the social science section of the Ohio College Association devoted one session to "Is Democracy Threatened by Executive Domination?," and another to "The International Situation." Professor Roy V. Sherman, of the University of Akron, was elected president for the ensuing year and Miss Mona Fletcher, of Kent State University, was reëlected secretary-treasurer.

Guggenheim fellowships have been awarded to Professors Francis D. Wormuth, of Indiana University, for research in political theory, with special reference to the separation of powers, and Eugene A. Forsey, of McGill University, for a study of cabinet government in Canada and its provinces since 1867.

The Bureau of International Research at Harvard University and Radcliffe College has given a grant to Professor H. Duncan Hall to study Anglo-American coöperation during and after the present war as a nucleus for a future world order. Professor Duncan Hall will give three national broadcasts in June from Ottawa, Canada, for the Canadian Broadcasting Corporation, on the subject of "Psychological War and Morale."

A Public Affairs Conference on National Preparedness held at Principia College, Elsah, Illinois, May 2–3, was participated in by Professors William Y. Elliott of Harvard University, John T. Salter of the University of Wisconsin, Harold S. Quigley of the University of Minnesota, and Dr. Brooks Emeny of Cleveland, Ohio.

The first issue of a new journal to be known as the *Far Eastern Quarterly* is scheduled to appear in the autumn. The managing editors will be Professors Hugh Borton and Cyrus H. Peake, of Columbia University, and Earl H. Pritchard, of Wayne University. Professors Kenneth Colegrove, of Northwestern University, and Harold S. Quigley, of the University of Minnesota, will be members of the editorial board.

The forty-fifth annual meeting of the American Academy of Political and Social Science, held at Philadelphia April 4–5, was devoted to the general subject, "Defending America's Future." The numerous papers presented will appear in a future issue of the *Annals*.

The University of Michigan has announced a "graduate study program" on "Public Policy in a World at War," extending through the period of the summer session. Among special lecturers will be Professors Edward S. Corwin of Princeton University, Max Lerner of Williams College, Dr. Brooks Emeny of Western Reserve University, and Dr. Hu Shih, Chinese ambassador to the United States. Professor Lawrence Preuss is a member of the committee of management.

The Seventeenth Institute under the Norman Wait Harris Memorial Foundation at the University of Chicago will be held July 7–16, and will be devoted to the subject, "The Political and Economic Implications of Inter-American Solidarity." Participants will include distinguished scholars and representatives of Latin American countries as well as of Canada and the United States. The Institute will consist of round-table discussions participated in by a limited number of invited guests, and of public lectures which will be available in a volume to be issued in the fall of 1941.

The Midwest Political Science Conference held its third annual meeting May 19–21 at Pokagon State Park, Indiana, with approximately 115 persons in attendance. An introductory session on "Political Science as a Profession" was followed by discussion meetings dealing with "Some Problems of Teaching Constitutional law," "The Rôle of the Republican Party in the Near Future," "The Implementation of the Peace," and "Some Recent Trends in Public Administration," and by more general sessions on "Some Organized Governmental Research Programs in the Middle West," "Some Problems of National Defense," and "The Legislative Process."

At the twenty-second annual meeting of the Southwestern Social Science Association, held at Dallas on April 11–12, with Professor Cortez A. M. Ewing, of the University of Oklahoma, as general program chairman, the Government Section devoted sessions to "Man in the Total State," "Technique of Manufacturing Consent," and "The Administrative State," with S. B. McAlister, of North Texas State Teachers College, William H. Edwards, of New Mexico State College, and John H. Week, of the University of Oklahoma, respectively, serving as section chairmen.

The third annual meeting of the Pennsylvania Political Science and Public Administration Association was held in Harrisburg, April 18–20, with a registered attendance of sixty-five. The program, arranged by a committee under the chairmanship of Professor Roger H. Wells of Bryn Mawr College, included general sessions on legislation, civil liberties, and national defense, with five round tables holding two sessions each. These dealt with political parties, teaching problems, public assistance, and reporting, research and publications. At the concluding business session, the following officers were elected: president, Professor Charles C. Rohlfing, University of Pennsylvania; vice-president, Dr. M. Louise Rutherford, deputy attorney general, Department of Justice, Commonwealth of Pennsylvania; and secretary-treasurer, R. Jean Brownlee, of Philadelphia. New members of the Executive Council are: Professors W. Brooke Graves, Temple University, retiring president, Benjamin H. Williams, University of Pittsburgh, and John H. Ferguson, Pennsylvania State College. Among the recent activities of the Association may be mentioned a survey of the content of political science course offerings in Pennsylvania colleges and universities, by Professor Ferguson, and the compilation of a classified bibliography on Pennsylvania state and local government, by the Committee on Research, under the chairmanship of Professor James C. Charlesworth, of the Institute of Local and State Government, University of Pennsylvania. The bibliography will be published shortly by the Institute. The Association is also sponsoring the organization of local public administration societies in Philadelphia, Harrisburg, and Pittsburgh.

[*Erratum.* In line 7 on page 382 of the April issue of the REVIEW, for "5.1 per cent" read "5,190."]

Scholasticism and Politics. By Jacques Maritain. (New York: The Macmillan Company. 1940. Pp. 248. $2.50.)

There can be little doubt that totalitarianism has greatly profited from that value-emptiness which has been the result of positivism and relativism in the social sciences. If it is impossible to demonstrate priorities in the realm of values by scientific method, then totalitarian values are, scientifically speaking, on the same level with any other. All who, misled by her triumphs in other fields, look to science for help against fascist ideologies are thus disarmed before the fight begins. Yet why should fascism alone profit from this situation? Since, in any event, we must choose according to non-scientific criteria, why not choose the Gospel? Faith will give us certainty of values, supplemented but not replaceable by science. Do enter, then, St. Thomas, and repeat the greatest union ever consummated in the history of thought, i.e., the marriage between faith and reason. With science now becoming modest in the realm of values, the door is wide open—wider than in four centuries.

This historical situation lends particular importance to Jacques Maritain's philosophical mission. His philosophy of the state is firmly based on the Christian set of values, but, in the Thomist spirit, supported and permeated by reason. Maritain, however, like St. Thomas, regards that which he offers as real science. For science in the Thomist sense includes supra-rational kinds of wisdom. This genuine sense of science should be restored, he demands, and we should "realize what misery it is for the mind to reduce science to the type of empiriological science, i.e., the physico-mathematical sciences and the sciences of phenomena." There "must" be such a science, he exclaims, a knowledge in which the intellect is "on the inside." The intellect "sees." Metaphysics *is* science in this ampler sense. The "mystery of abstractive intuition" makes the metaphysician. Kant did not have it, but St. Thomas did. Even between physics and metaphysics, there is a philosophy "of nature" which, without entering into metaphysics, at least reaches *being* itself, beyond the mere realm of phenomena.

In the opinion of the reviewer, this conflict on the meaning of science should be appraised for what it really is, namely, a dispute between those who care for full intersubjective demonstrability of their contentions and those who do not. In the realm of intuition, only a small area seems to be open to such demonstration. Yet this fact alone does not exclude the truth of the balance, and even the intersubjective area may be expanded.

It would be vain to try to present the essence of this book in a few lines. Its greatness is unreviewable because of the abundance, the fullness, the meatiness of every sentence. What Maritain has to say on person and individual, on humanism, on freedom, on Marxism and Freudianism, is

among the very best of things ever said on these subjects. The following remarks are aimed at serving the particular interests of readers of this periodical. Maritain wants to replace the Rousseauist democracy of the individual and of numbers by a democracy of the *person*. "I am wholly an individual, by reason of what I receive from matter, and I am wholly a person, by reason of what I receive from spirit." He demands not only a mere weakening of errors, but a "complete turn toward spirit." To make a democracy of the person possible, "men must be governed as persons, not as things." Such a democracy is inconceivable without the "energies of the Christian leaven," but also without *authority*, that is, the legitimate right to be obeyed. Authority must be just to be authentic. That justice and not number should govern, is truly democratic. For the origin of the democratic sense is not the Rousseauist desire "to obey only oneself," but rather the desire "to obey only what it is just to obey."

The difficulty of how to determine justice beyond the positivistic concept is, to a certain degree, solvable under Maritain's assumption, as he is able to refer to the Gospel for the basic elements. More difficult remains the perennial problem of how we can establish "authority" without either following the law of numbers or inviting despotism. Maritain would not abolish universal suffrage, whose symbolic value he recognizes. Nor would he suppress multiple parties, whose educational services should be preserved. Yet he would render the state and government independent of political parties. He would reduce the rôle of elected assemblies—which he wishes to be pluralistic in character—to an advisory capacity and to the ratification of proposals made by the higher authority, including proposals on appointments. Representative assemblies would have sovereign decision only "in certain cases concerning in a major manner the life of the nation." This scheme lies open to ardent criticism on behalf of democratic tradition and eternal vigilance. But we would not do justice to Maritain in focusing on practical details which, contained in a mere footnote, do certainly not present the center of his calling and interest. The book's paramount value lies in its profound presentation of the reasons which cry for a more perfect union between Christian, humanitarian ideals and democratic institutions, rather than in these practical suggestions. As the book proceeds, we are gradually led from humanism and Christianity in general to the doctrines of the Catholic Church and suggestions for the life of a Catholic citizen. I cannot but feel this to be a narrowing down from the wide vista opened up in the earlier chapters. But this regret should not trouble us too much. We may read the final chapters as a welcome source of information on Catholic topics, while we enjoy the first in a more universal spirit, unconcerned with the shades of denominations, Christian or other.

ARNOLD BRECHT.

New York City.

The Dual State; A Contribution to the Theory of Dictatorship. By Ernst Fraenkel. Translated from the German by E. A. Shils, in collaboration with Edith Loewenstein and Klaus Knorr. (New York, London, Toronto: Oxford University Press. 1941. Pp. xvi, 248. $3.00.)

This volume gives an account of the basic legal and constitutional principles of the Third Reich. Its author practiced law in Berlin between 1933 and 1938, and in consequence was familiar with the actual working of National Socialist law. In writing the book, he has been able to use the reports of the leading decisions of German courts during the years mentioned. The work falls into three parts. In the first, the author offers an account of the principal decisions having to do especially with legal restraints upon executive actions and with the security of property rights. The second part deals with the legal theory of National Socialism. The third contains the author's analysis of the National Socialist state from the point of view of German constitutional history, and of its economic and sociological background.

The first part of the book is particularly interesting and valuable because it contains a sort of information not readily available outside of Germany and not usually known to readers who have little acquaintance with German law. In part, the conclusion reached is familiar enough: Constitutional guarantees, legal restraints upon the police power, and judicial review of the acts of the police have completely disappeared from German law in all cases that are regarded as having political significance. "The political sphere is a vacuum as far as law is concerned" (p. 3). This, however, tells only part of the story. After examining the decisions relative to the rights of property, the author concludes: "The property system of Germany has not been transformed by the National Socialist catchwords. Private property still enjoys the protection of the courts from official interference, except where political considerations are involved" (p. 78). This conclusion is supported by an examination of decisions bearing upon the freedom of enterprise, the sanctity of contracts, the regulation of competition, the control of employers over labor, and the protection of rights to intangible interests. In all these cases, it is necessary, of course, to exclude from consideration the property rights of Jews.

The leading constitutional characteristic of the Third Reich is, therefore, an unlimited arbitrariness and extra-legality of political power side by side with a legal system which is mainly devoted to safeguarding the interests of private property; it is this which accounts for the title of the book. The author distinguishes on the one hand what he calls the "Prerogative State"—the political or governmental system which is altogether unchecked by legal guarantees—and the "Normative State"—an administrative body with elaborate powers for upholding a legal order embodied in statutes, decisions, and administrative ordinances. The chief

characteristic of National Socialist dictatorship is the combination of these two states in what the author calls the "Dual State."

The parallelism of these two elements in the Dual State, however, is not accidental; it is necessary for the maintenance of capitalism in Germany. The author holds, therefore, that capitalism in essence has been maintained, even in spite of all the limitations and qualifications of property rights that political control has imposed upon capitalists. Obviously, no such claim could be made if capitalism connoted *laissez faire*, but the author points out that no such system existed even under the Weimar Republic. German capitalism had already reached a monopolistic stage, and National Socialism has extended and multiplied controls whose like already existed. The author's chief reason for regarding this organized and regulated system as capitalism lies in the disparity between the treatment of labor organizations and the interest-groupings of other economic classes; the latter have been controlled, but the former have been destroyed. The Dual State, therefore, reflects the stage of capitalistic development that has come to prevail in Germany, a stage which requires the irrational and arbitrary procedure of the Prerogative State, but which cannot dispense with the rational legal order demanded by an economy still largely conducted by exchanges of private property. The sociological chapter with which the book ends discounts the claim that National Socialism has materially changed the class structure of German society. The author seems to regard it as an illogical and unstable combination, apparently as a forcible interference with a process that might peaceably have eventuated in some kind of socialism. This part of the book is not much elaborated. The account of the National Socialist legal system is of great interest and value.

GEORGE H. SABINE.

Cornell University.

The Redemption of Democracy. By HERMANN RAUSCHNING. (New York: Alliance Book Corporation. 1941. Pp. 243. $3.00.)

In his earlier books, the author made all-important contributions toward an understanding of the German Revolution. Today, the concepts whose purpose he has designated by the word "nihilism" have been so widely accepted that we are likely to forget that he first expressed them and documented them with a wealth of evidence. For far too long, Hitlerism had been conceived of as a traditionalist, nationalist, "Prussian," or at least "capitalist," movement, the continuation of ancient struggles by the state against the people, the rich against the poor. Rauschning showed that it was a phenomenon *sui generis*. The German leaders are concerned neither with capitalism nor with socialism, nor with any of the other ideological antitheses that dominated the nineteenth century. They serve

no idea. They serve only *power*—its enjoyment, its maintenance and expansion by the methods of dissolution. They are enemies of the past and of traditional values, as they are enemies of truth. They are nihilists.

Rauschning's performance in his first book was essentially descriptive and negative. Necessarily, however, he also had inherent positive tendencies. Defense and counter-attack are determined by the nature of that against which one is defending oneself. If it uses for its own purposes demands and exigencies of contemporary history, the defender too must have the will to respond to these, and better than it. The principle of evil must be opposed by that of good—compromise against absolutism, federalism against totalitarian state, morality against amorality, tradition against hostility to history. A new form of *conservatism* is readily discernible in Rauschning's earlier writings—a conservatism, to be sure, that is directed neither against democracy nor against socialism. Our own age is not dominated by the conflict that dominated the age of Prince Metternich. Metternich's foes were the democrats and nationalists; Rauschning's foes are the men of the totalitarian state—the men of nihilism.

To this conflict dominating our own age, the new book brings a wealth of divergent observations. They are under the influence of the war, of public life in Britain, and of British tradition, especially the tradition of Edmund Burke—a coincidence that may be called felicitous despite its tragic implications. Unfortunately, however, *The Redemption of Democracy* calls for almost the same work that Rauschning himself performs with regard to political actuality. The book contains a maze of contradictions, of questions and counter-questions, of skimmed and abandoned possibilities for thought that must first be clarified and organized on their own. The diary-like notes lack any real order. The thoughts are put down just as they surged into the author's head. Warnings, categorical statements, prophecies, desires, and fears merge one into the other. In unpracticed heads that cannot reduce confusion, this results in misinterpretations.

Rauschning is no reactionary. One of his important discoveries, rather, is that every age must create its own political categories, and that "reaction" and "revolution" today have lost their old meaning. Hitler has discredited the idea of revolution. Justice and liberty are not necessarily linked with this idea, nor are they so today. If we now agree that this is true of the present—is it true also for all our yesterdays? Can the present unmask the past? What is the connection between the Revolution of Nihilism and the revolutions of the eighteenth century—continuation or hostile repudiation, necessity or liberty, confusion, crime? That is a question of vast philosophical difficulty—a question that cannot be hurriedly posed and disposed of. Because he is an enemy of Hitler, Rauschning oc-

casionally seems to condemn in one fell swoop even the French Revolution, "progress" and "enlightenment"—all free science since the end of the Middle Ages. Then again he praises directed progress and liberty. But this contradiction is not spun out into agreement; it is merely balanced by means of countless "ifs" and "buts." It is a tortuous to and fro of thought processes.

A wealth of positive presentation is to be found in *The Redemption of Democracy*. As an expert on Nazi technique, the author is unexcelled. Americans particularly should read what he has to say about Hitler's American plans and rabid visions. Beyond that, Rauschning certainly must be counted among the most intuitive living writers on politics. His thoughts revolve around central problems—state and morality, technological organization, power, liberty. These are problems of fearful complexity—so complex, indeed, that the author at moments seems to give way to the temptation of solving them by the simple *dicta* that no "ism" holds salvation and that government ought to be as good, modest, limited, and effective as possible. In any event, we could have wished that the work had been given a more disciplined form. Whoever writes political philosophy today touches red-hot iron; and if the new conservatism is some day to prove its truth in practice, it will have to be very precise in its self-imposed distinctions from the old.

GOLO MANN.

Princeton, New Jersey.

Man and Society in an Age of Reconstruction. By KARL MANNHEIM. (New York: Harcourt, Brace and Company. 1940. Pp. xii, 469.)

The Contempt of Freedom; The Russian Experiment and After. By M. POLANYI. (London: Watts and Company. 1940. Pp. ix, 116.)

The book of Professor Mannheim is a revised and considerably enlarged edition (more than one-half of the book is completely new) of the German original, *Mensch und Gesellschaft im Zeitalter des Umbaus*, published in Leiden in 1935 and discussed in Volume XXX of this REVIEW (1936). The essence of the book and its main argument have remained practically the same. It is a plea for totalitarian planning of society. All the key positions must be in the hands of the state, all the functions of society must be planned according to an all-comprehensive scheme. The forces of mass society, *laissez faire* economy, and the revolution in technology have created more and more chaotic conditions, which cannot be cured with the remedies of nineteenth-century liberalism.

Nothing is altered in this central thesis, yet the new edition shows two very advantageous changes. The one is that the English translation has made its style clearer and less involved (though several of its Anglo-Saxon

critics consider it even now difficult to read); the second is that the author envisages his problem with a greater optimism. The first edition was written in the light of his experiences in feudal Hungary and in pseudo-democratic Germany, harassed by the brutalities of the class struggle and by the rigidity of the Marxian and Prussian ideologies. On the other hand, the second edition is deeply influenced by the author's impressions in the classic land of economic and political liberalism.

Whereas in the first edition one felt the gloom of the liberal society doomed to perish (though Professor Mannheim never asserted it openly), in the second edition there is hope (though not a very strong or convincing hope) that the totalitarian society may be reconciled with certain fundamental notions of freedom. As a matter of fact, the author is not less totalitarian than the Bolsheviks or the Fascists. Yet his spirit is radically opposed to them on two points: The one is that he regards "freedom and personal responsibility [the] highest of all values"; the other, that he is deeply aware of the fact that totalitarian planning is not simply the creation of a collectivist economy and of an administrative system. He shows with lucidity and force that all totalitarian schemes based exclusively on power, violence, and propaganda would mean a total collapse of all the values of our Western civilization. Therefore, the main task of the social scientist and the practical statesman is to reconcile those values with the absolute necessities of totalitarian planning.

The bulk of the volume consists of a number of essays which show the enormous complexity of the problem and offer certain solutions advocated by sociologists, economists, educators, psychologists, and practical statesmen for various aspects of planning. With a high degree of objectivity, Professor Mannheim does not hide the difficulties of the new world order. It is clear to him that without the remaking of human nature, without "planning the planners," without creating a vast public opinion which would accept spontaneously the totalitarian order, and without planning for zones of freedom in the framework of totalitarian regulation, the result cannot but be disastrous. In his argument, he comes near (though with certain hesitation, and sometimes with disquieting restrictions) to the reintroduction of a bill of rights into the totalitarian society: "The various historical interpretations of freedom, freedom of movement, freedom of expression, freedom of opinion, freedom of association, freedom from caprice and tolerance, are all special obligations which must be met by the new society. For naturally the advent of planned freedom does not mean that all earlier forms of freedom must be abolished" (p. 379).

Admitting this, it seems to us that Professor Mannheim has here broken down a door which was already open. The present distrust of totalitarian planning is not motivated (at least among thinking and sincere persons) by their adherence to an orthodox dogma of *laissez faire*, but by

their conviction that totalitarian planning would destroy the values without which civilized life would be worthless. In dispelling this fear, based on a large number of experiences and psychological observations, Professor Mannheim appears not so successful as in showing the essential conditions of totalitarian planning. Only by making freedom a thoroughly vague and absolutely relativistic concept, by overstressing the malleability of human nature, by exaggerating the importance of the *mores* to the detriment of the initiative and creative activity of the individual, by making undue allowances for the so-called achievements of the totalitarian systems (he overstates the efficiency of techniques, propaganda, and education and scarcely mentions bloodshed, terror, and the strangling of public and private liberties which are the real foundation of the totalitarian systems), only so can he arouse a false feeling of security for the safeguarding of human dignity under the totalitarian state. Yet by clearly stating the intricate aspects of totalitarian planning, by discussing the ideas of many thinkers in this line (as a matter of fact, he offers a 72-page bibliography, carefully selected, as an appendix to the volume), and by a cautious and penetrating analysis of certain historical and present-day experiences, Professor Mannheim offers a volume which will for a long time remain an outstanding achievement in this field.

It is essentially the point unsolved in the book of Dr. Mannheim upon which the series of essays presented by Professor Polanyi is concentrated. Though an outstanding physicist at the University of Manchester, Dr. Polanyi has devoted a great part of his energy during the last decade to our disconcerting social problems, and has studied the Russian experiment several times on the spot. On the basis of his inquiries he came to the conclusion that our Western civilization is headed towards catastrophe: "The progressive minds were so fascinated by the prospects of the revolution in Russia that they had little interest left for the fate of traditional liberties. In fact, they were inclined to look at these with contempt, to consider them as ineffectual and hollow phrases as compared with the solid realities of the coming social revolution" (p. v).

In the first of his essays, Dr. Polanyi gives a thoroughgoing refutation of the ideas of one of his colleagues, Professor Bernal, who advocated a kind of planned science, with emphasis on its social and practical aspects. The author shows how the following of such a scheme would mean the merciless destruction of intellectual liberty and how pure science is a fundamental necessity even from the point of view of concrete practical achievements. In his second essay, on "Collectivist Planning," he stresses the essential difference between totalitarian and regulative or supervisory planning. He shows that an all-pervading totalitarian planning would destroy itself, whereas the second type of planning is possible and an imperative demand of our time. In a third essay, he gives a penetrating

analysis of the Soviet economy. He demonstrates, both deductively and inductively, the intrinsic antagonisms of this system and the deadlock to which it would lead if its theoretical dogmatic principles were not neglected or mitigated at many points. In a last essay, on "Truth and Propaganda," he gives an acute criticism of the much heralded book of the Webbs on *Soviet Communism*. He shows how Soviet blueprints were interpreted here with the logic of wishful thinking.

When the latter two essays were published, they aroused considerable antagonism, due to the preponderance of admiration for communism, then fashionable among intellectuals. But important later contributions have substantiated the main points of the criticism. Though refreshing and unpretentious in the handling of its problems, the little volume is more than the brilliant *aperçus* of a distinguished layman; it is a contribution of unusual acumen and originality, which may be helpful for the reconstruction of a truly liberal political philosophy, pointing towards decisive social reforms.

OSCAR JÁSZI.

Oberlin College.

The Majority of the People. BY EDWIN MIMS, JR. (New York: Modern Age Books, Inc. 1941. Pp. 314. $2.75.)

It is the function of each generation of scholars to reinterpret the past to its own satisfaction. This volume takes its place among a number of other works which evaluate anew some of the basic principles stated by leaders of American political thought. Professor Mims approaches with energy and epithet the task of defending the place of the concept of majority rule in American thinking. He believes, apparently, that the efforts of the last few years to break down barriers to the direct and immediate reflection of majority sentiment in government is but a rejuvenation of what has been the real American tradition. He has thus produced a provocative and controversial study of the American political mind.

The book is built around a study of functional political conceptions, such as sovereignty, constitution, court, law, liberty, the individual, property, equality, and the people. In dealing with each of these ideas, an effective selection of quotations is drawn from the writings of distinguished American political writers. The basic proposition through these separate studies is, approximately, that the early acceptance of the sovereignty of the people, that is, the majority, was perverted by those seeking to protect minority, i.e., property, rights. On the contrary, recent leadership and policy is a return to the first and great American tradition. He states, however, that the concepts treated "are capable of both a majority-rule and a minority-rights reading. We have seen how the fact of this double

line of ideological precedents has been conducive to evasiveness and ambiguity in our political thinking" (p. 239). When the author argues, for example, that Hamilton was a tricky lawyer using in *The Federalist* the armature of democracy to "smear" democracy itself, it will perhaps be more provocative than convincing. To argue that Hamilton created the principle of judicial review "out of thin air" is, to say the least, a controversial proposition (p. 108).

Thus, the reader would be interested in a fuller discussion of the right of the majority when it goes beyond the Constitution. Does the Constitution "constitutionalize" a right of revolution? Does not the statement (p. 275) that the power of the patriotic majority is "limited only by the stipulation that minority individuals shall be unrestrained in their efforts to form a new majority" lead back to the very constitutionalism which the author deplores? What is the basis of such a limitation on the majority? One might ask whether there are other "natural" rights than that of the majority to control, since other rights are mentioned in bills of rights. The author hardly shows that early American leaders who believed in the sovereignty of the people were uninterested in the constitutional protection of minority rights, and he denies in effect that the Constitution reconciles majority will and minority or individual rights.

Professor Mims comes to the conclusion that the majority today is the proletarian majority; that this majority must follow a "militant leader"; and that an "arbitrary will" is essential in democratic government (pp. 293 ff., 149). The reviewer believes he underestimates the interest of the conservatives in the rule of law; contrary to those like Lederer who fear the mass-state, Mims seems to look forward to it with pleasure. If the author's emphasis on the "leader" is disquieting, his volume contains an account of the frontier theory in American thought which should be highly provocative (pp. 208 ff.), an excellent treatment of the sociology of leadership and the dictatorship of the proletariat (pp. 243 ff.), and a critical acumen which drives the most careless reader to seek for the inarticulate major premise which may be "surplus value" as much as "majority will."

FRANCIS G. WILSON.

University of Illinois.

Introduction to Politics. By ROY V. PEEL, JOSEPH S. ROUCEK, AND OTHERS. (New York: Thomas Y. Crowell Company. 1941. Pp. xvi, 587. $3.75.)

The stated object of this book is to satisfy the demand for an appropriate introductory textbook in the field of political science. With this in mind, the editors, Professors Peel and Roucek, courageously undertook a coöperative scholarship project wherein a number of collaborators joined their efforts with those of the editors to produce this volume. Each

collaborator contributed a chapter summarizing the materials in a specific given area—presumably an area for which he possesses unusual competence. This procedure was based on the assumption that in a comprehensive study no one or two persons could accumulate and digest facts and present conclusions relating to them as successfully as could be done by some twenty-five experts. The editors, in addition to contributing two chapters each to the body of the text, assumed the task of bringing consistency and systematic synthesis to the entire volume of materials and viewpoints.

The volume presumes to cover all fundamental aspects of politics. Nor is it confined to a treatment of domestic politics. Comparative politics and theory and much comparative history permeate the book. Legalistic and functional treatments are not abandoned, but certainly they are thoroughly subordinated to "the understanding of political realities" through a study of the social forces which bear on the political processes. "For the editors and co-authors believe most sincerely that any uplifting of politics, any kind of education for American citizenship, any effort to preserve our democracy, must be based on the understanding of political realities and not on fairy-tales. It is true that our children ought to know the phrasing of our Constitution. But it is equally, if not more, important that our future citizens should also know how this great document has survived the test of time by its adaptability, by the interpretation of its clauses, by the observance and non-observance of its various parts, and what were the social forces in that process. Such an approach is the only sensible approach, and the one which we aim to introduce here in discussing all aspects of politics" (pp. 12–13).

The twenty-seven chapters of the book are organized into five sections. Following a brief introduction devoted to "the essence of politics," the first section discusses the scope and methods of politics and the place of politics in the social sciences, and stresses the importance of folklore, symbols, attitudes, opinions, and ideologies. In section two, seven chapters are devoted to "the forms and sources of political power." The framework of organization used embraces a study of peoples, nations, states, systems of government, forms of government, leaders, followers, and the citizenry. Section three comprises seven chapters on "political techniques and procedures." Constitutions, elections, political parties, legislatures, executives, judicial systems, civil services, and bureaucracy fall within this classification. The four chapters of section four deal with "regulation and service." These two functions are accepted as the major tasks of government. The last four chapters of the book are devoted to section five on "the future of politics." In this section there is an attempt to indicate trends in local government, international affairs, political systems, and education.

If this introductory textbook is intended as one to be used as an outline for a one-semester course in colleges and universities, this reviewer believes that one of two results will follow. Either the materials will be hastily and superficially treated or the topics projected in the volume will not be covered. For "the essence of politics" as outlined in this book would embrace the fundamental parts of those courses now prevalent in college offerings which are commonly known as "Comparative Government," "Elements of Government," "Introduction to American Government," "Elementary Political Theory," and substantial parts of "World History." Only a most experienced and successful teacher could hope to present a satisfactory course covering so comprehensive an area. The task would be the more difficult because of only fairly successful integration of materials throughout the book.

A second observation seems justified. If today "the bulk of government is administration," and this reviewer believes that it is, it is to be regretted that in this volume we have another textbook in which this amazing development is comparatively neglected. For if "the bulk of government is administration," surely administration must be a substantial part of "the essence of politics."

CATHERYN SECKLER-HUDSON.

The American University.

Public Administration and the United States Department of Agriculture. BY JOHN M. GAUS AND LEON O. WOLCOTT. (Chicago: Public Administration Service. 1940. Pp. x, 534. $4.50.)

Administrative Decentralization. BY DAVID B. TRUMAN. (Chicago: University of Chicago Press. 1940. Pp. xi, 211. $2.50.)

Messrs. Gaus and Wolcott have contributed the tenth in the series of studies in administration prepared and published for the Committee on Public Administration of the Social Science Research Council. The objective of the authors has been to encourage and to provide a setting for research in administration under our federal system, based upon the assumptions that the study of administrative organization and procedure should be related to the problems of a subject-matter field and that researches in administration need to be developed as parts of comprehensive programs of regional and local appraisal. They also have undertaken to throw light on the nature of administrative departments generally by their study of this particular one. Few authors achieve their purposes so well and with so much genuine satisfaction to their readers.

In many respects, the U. S. Department of Agriculture illustrates the best in the tradition of American governmental administration: valuable service to a great section of the American people, by a highly competent career personnel recruited largely from the land-grant colleges, applying

the findings of scientific research, and utilizing the resources of all levels of government in our federal system. The story of how this great department developed from small beginnings to its present stature and complexity, the substantive activities in which it is engaged, and the resulting problems of administration which confront it are interestingly and engagingly described in this book. As the reader proceeds from chapter to chapter and from section to section, the crucial administrative problem of this great department to which the authors so frequently refer becomes crystal clear, namely, the integration of its many and varied activities and the reconciliation of the many special interests which are affected by it in order that it may truly serve the whole nation in the achievement of a balanced economy.

No adequate account of the riches which await the student of public administration who reads this book can be given within the space allotted for this review. The authors have distilled a vast amount of literature—historical, functional, biographical, and philosophical—and have added, in judicious mixture, delightful bits of personalized experience gained through numerous conferences and contacts with persons now or formerly associated with the Department. The first part, in which five chapters are devoted to the evolution of the Department, emphasizes the transition, beginning with the Houston secretaryship in 1913, from what was essentially a research and informational service to an agency concerned with the planning and direction of our agricultural economy. The authors find that "the department has generally reflected continuity in policy and function regardless of changes in party controls," and that in the several conditioning factors which have influenced the evolution of its activities and structure the student of public administration will discover "some explanation of the nature of a department."

Part II is devoted to an analysis of the Department's activities and of the line agencies that administer them, classified as follows: production, land use, marketing and distribution, rural life, and agricultural credit. The reader finds it easy to accept the authors' conclusion that land utilization furnishes the nucleus of the most significant group of the Department's activities, and that the need for coördination within this group of activities has given rise to some of the most interesting devices for interdepartmental, intradepartmental, and federal-state collaboration and control.

The authors' discussion of the department as a functional entity and their description of its general staff and auxiliary services constitute a high point in the study, especially for students of government, but there is no mistaking the essential unity which characterizes the entire work. The general staff concept, so often discussed in the abstract, comes to life when related to the urgent need of this huge governmental agency

for effective instrumentalities in policy formulation and in administrative direction and control. A concluding chapter on the Department in the light of current problems contains a special challenge to political scientists to make use of their immediate environments for researches which center in the community or the area, and which bring into focus and relationship the entire range of the Department's activities.

The appendices contain: (1) a monograph on *Budgetary Administration in the Department of Agriculture*, by Verne B. Lewis, which throws much new light upon the problems of budget organization, procedures, and objectives, especially at the departmental and bureau levels, and which points the way to many similar studies in other governmental agencies; and (2) documents and statistical data illustrative of the Department's activities, methods, and personnel.

David Truman's *Administrative Decentralization* is a study of certain Chicago field offices of the U. S. Department of Agriculture, including the Bureau of Animal Industry, the Agricultural Marketing Service, the Food and Drug Administration, and the Commodity Exchange Administration, and appears as Volume XII in the series of pioneering studies in public administration emanating from the University of Chicago. Beginning with a very concise and helpful discussion of the general problem of decentralization and the forms and organization which it has taken, especially among certain federal agencies, the author proceeds to examine the organization and activities of the several field offices studied, the various factors which have contributed to or retarded decentralization, and the advantages which have been secured through decentralization. The study clearly reveals the hazards of attempting to generalize with reference to headquarters-field relationships, even within the confines of a single department. Of all the forces which govern the importance of the part played by the field, the author finds that "the policies of the central offices regarding decentralized field operations are the most significant," and that, while the department has yielded to certain influences tending to force decentralization, "few positive efforts have been directed toward decentralizing, and under these circumstances inaction has made centralization the norm."

LLOYD M. SHORT.

University of Minnesota.

Public Management in the New Democracy. EDITED BY FRITZ MORSTEIN MARX. (New York: Harper and Brothers. 1940. Pp. ix, 251. $3.00.)

This work consists of papers presented at a symposium held under the auspices of the *Harvard Guardian* Conference on the American Public

Service, a conference called and organized by a group of undergraduate students. The contributors consist largely of those who are or have been engaged in public administration, several professors, a prominent consultant in industrial management, and a student. The participants are for the most part men who enjoy an enviable reputation in their respective fields and who speak with a considerable degree of authority. The work is divided into four parts—one on the foundations of public management, one on the essentials of public management, one on recruitment for public service, and the final section on the conditions of public employment. These headings indicate the scope of the symposium and show its comprehensive character. In the nature of the case, there is a lack of organic unity and a certain amount of duplication, but these shortcomings do not seriously detract from the value of the contributions, particularly since the individual papers represent the best thinking of carefully selected people who know whereof they speak.

The key-note of the volume is struck by Max Lerner, who selected the topic, "The Burden of Government Business." He dilates on the central importance of public administration in "the crisis state." The crisis state has come to be largely because of the break-down of and the conflicts within the economic system. He points to the new techniques that are now developing in the government, such as the application of the principles of Taylorism, new types of control, planning, and research. He suggests that to meet the dangers of an emerging society a revolution of administration is to be cultivated, and is called for in order that we may safeguard ourselves against a revolution of violence. Mr. Lerner not alone sounds the key-note, but sets the challenge for the subsequent chapters.

Other contributors deal with the relations between government and the citizen, the courts, and the legislature; still others lay stress upon the need for technical advisory services and planning boards, and finally upon the relations between public servants and political parties from the point of view of political activity. Most of the papers are concerned with internal administration from the point of view of organization and management and the recruitment and training of those who are engaged in or interested in administrative positions.

In the chapter entitled "Administrative Coördination," contributed by Harry A. Hopf, one finds, in a condensed form, the important principles of organization that have been worked out in private enterprise. Mr. Hopf takes occasion to pass criticism more or less incidentally on practices encountered in federal government in relation to a number of these principles. In discussing the subject of functionalization, for example, he suggests that over-functionalization is a shortcoming frequently met with in federal organizations and suggests that this imposes a great strain on

the coördinating ability of the overhead staff. Emphasizing the necessity of a scientific balance among various elements entering into management, such as resources, men, method, machinery, materials, and money, he takes occasion to suggest that administrators selected because of political connections are not likely to meet desirable standards of competency, that specialized technical competency does not necessarily guarantee administrative competency, and that juniors selected through normal civil service procedures are not likely to be above the level of mediocrity. He comments on the lack of standardization both in machinery and material and the conflict often occurring between operating and budgetary requirements. He makes a plea for sound organization structure that should be infused with life through effective administrative coördination.

Arnold Brecht, former *Ministerialdirector* of the German Civil Service, writing on the subject, "The Relevance of Foreign Experience," draws a comprehensive comparison between the system of recruiting and training administrative personnel in foreign countries and the policies in effect in the United States. He dilates upon the conflict between the merit principle and the spoils system so often encountered in this country, pointing out that this conflict has long since been resolved abroad. Secondly, he criticises the specialized job examinations which are current with us, the lack of harmony between school and academic curricula and examinations for the public service, and the fact that it is possible to enter the administrative service at a relatively advanced age in the United States, while abroad, it is customary to enter immediately after the completion of one's schooling.

The final chapter, on "Administrative Responsibility, is contributed by Fritz Morstein Marx, who also served as editor of the volume. This chapter is a carefully reasoned and most illuminating discussion of administrative discretion. The author points out that no administrative act is valid unless it is based on statutory authorization. He then suggests that such authorization leaves considerable leeway to the administrator, who is called upon to transcribe the letter of the law into administrative orders which are in essence "creative acts." Court decisions also serve in the ordinary course of events as inadequate checks on administrative discretion, since they are largely preoccupied with the law rather than with its enforcement. Mr. Marx sums up the situation in the following statement: "Of all powers, discretionary powers are the least susceptible to extraneous controls and general canons." On the ground that rules and regulations are necessary to make law a constructive force, he makes a plea for the standardization of administrative procedure from within, as it were, and finds that interest in an internal reform is under way, a reform that should be "professional in spirit," and one having due regard for uniformity and elasticity and appreciation of the rights of individuals.

Such a movement seems to him necessary if we are to make more perfect the operations of a complex democratic society.

Taken as a whole, this work is worthy of careful reading by those who concern themselves with public administration as an evolving science and art.

WILLIAM E. MOSHER.

Syracuse University.

Congressional Apportionment. By LAURENCE F. SCHMECKEBIER. (Washington: The Brookings Institution. 1941. Pp. x, 233. $2.50.)

In the growing body of scientific literature about the Congress of the United States, there has been no single source for the information presented in Mr. Schmeckebier's book. The volume is a welcome addition to monograph materials, and it is much to be hoped that the data here recorded will stimulate further congressional and state activity in improving policies of apportionment and districting.

After definition of terms, the author presents detailed descriptions of the five modern methods of apportionment, all mathematically consistent: major fractions, equal proportions, harmonic mean, smallest divisors, and greatest divisors. Each discussion is accompanied by algebraic proof of the correctness of the method. Mr. Schmeckebier points out that mathematically relative difference is more significant than absolute difference (p. 60), and he therefore subscribes heartily to the widely endorsed view that the unused method of equal proportions is most nearly equitable (p. 72) and ought to supersede the currently employed method of major fractions. A valuable chapter discusses discarded methods of apportionment, many of which are subject to the so-called "Alabama paradox" by which, when the size of the House is increased, a state may even lose a member although gaining in population while another state inequitably gains though losing population. The Vinton method, used after all censuses from 1850 to 1900, is subject to a population paradox.

The author recommends a constitutional amendment providing that apportionment be based on votes cast rather than on population (p. 97). With cogency, he reveals that the portion of the Fourteenth Amendment which provides for reduction of representation in states where the franchise is abridged cannot be enforced for statistical, as well as for social and political, reasons. Yet, he would hold, steps need to be taken to remedy a situation, as in 1938, when 36.6 per cent of the population in Northern and Western states voted for representatives as contrasted with 6.8 per cent in Southern states. In any event, whether or not his proposed constitutional amendment should be adopted, Mr. Schmeckebier evidently favors a change in the Constitution to exclude aliens from the apportionment population (p. 88).

Separate chapters are devoted to a history of apportionment and to "apportionment within the states." Portions of the latter chapter are already obsolescent: the equity of districting in each state is discussed, but the volume went to press before changes were made by 1941 sessions of state legislatures. Yet the book was intended to influence legislation in the many states where districting has been inequitable. The powers of Congress in respect to districting are reviewed in some detail, and other pertinent considerations regarding prevention of unfair conditions within the states are included. If the states will not comply with the demands of equity, the author would advocate districting by Congress (pp. 143–144). There is no discussion of the merits and possible effects of proportional representation.

In a series of appendices appear useful priority lists for the five methods of apportionment, based on the census of 1930, and also priority lists for the methods of major fractions and equal proportions applicable to the 1940 census. To the general student, the tables showing total and apportionment population, together with assignment of representatives, for each census are of even greater value. The absence of an index is regrettable.

Mr. Schmeckebier has written a book of standard and permanent reference value. There are evidences that it was produced under pressure of time, yet in fairness it must be borne in mind that the volume was by design completed before important political decisions early in 1941. The combination of scholarly and political considerations is much to be commended. The suggestion (p. 150) of the need for detailed studies in each state is worthy of attention.

FRANKLIN L. BURDETTE.

Butler University.

The Planning Function in Urban Government. BY ROBERT AVERILL WALKER. (Chicago: The University of Chicago Press. 1941. Pp. xxi, 376. $3.00.)

Los Angeles: Preface to a Master Plan. EDITED BY GEORGE W. ROBBINS AND L. DEMING TILTON. (Los Angeles: The Pacific Southwest Academy. Publication XIX. Pp. xvi, 303. Map and illustrations. $3.00 cloth, $2.00 paper.)

Dr. Walker's work is based upon his investigations and interviews in 37 cities, and his review of planning literature in the light of modern administrative theories. He presents a résumé of the development of city planning in the United States, an analysis of the planning function and of urban planning organization, and brief studies of planning programs in Chicago and certain other cities. His general conclusion is that American city planning has fallen far short of expectations. In trying to explain its

deficiencies, he develops a central thesis, somewhat as follows: 1. The creation of independent unpaid planning commissions placed the planning function at the periphery and not at the center of the city government, with resultant frustrations and antagonisms. 2. The conception of planning as primarily physical was too narrow. It led to undue emphasis on such matters as streets, zoning, and civic art, with a tendency for zoning to become predominant, while planning staffs, in turn, tended to consist of engineers and architects rather than social scientists and experts in administration. As a remedy, Dr. Walker proposes that the concept of city planning should be made as broad as the whole range of urban public functions, and that the planning function should be assigned to a research and advisory agency of broad scope attached directly to the office of the chief executive, as in the case of the national government.

While few students of public administration are likely to disagree strongly with this theory, the protests from other quarters are certain to be not long in coming. The political scientist might suggest, among other things: (a) that only the larger cities have both the ability and the willingness to support the type of planning agency proposed; (b) that not all the larger cities have the type of administrative organization, under city manager or strong mayor, that is implied in the plan; (c) that the proposed change will necessitate a reconsideration of the planning functions of local budget bureaus; (d) that a small staff can hardly be expert in all the subjects to be brought under planning control; and (e) that most of the difficulties of effective planning in a dynamic, individualistic, democratic society, where even the objectives of planning are matter for debate, will still remain. Despite these remarks, the reviewer considers Dr. Walker's book one of the most valuable and stimulating contributions to urban planning literature in many a year. It is well documented, based on sound observations, carefully reasoned, and written in readable style.

The other volume represents the commendable effort of an unofficial group of competent local experts to present the planning problems of that far-flung, helter-skelter, vital yet mushroom growth called Los Angeles. An introduction by Clarence A. Dykstra, former resident of the area, is followed by twenty individual contributions covering such subjects as geography, population, land use, water, streets, zoning, and sanitation. As the editors themselves point out, "the physical aspects of the community are given primary consideration, but other factors amenable to planning and equally worthy of study are recognized. Resources, industry, government, education, the arts might well become the subjects of companion volumes." As a matter of fact, several of the contributions do reach considerably beyond mere urban physical planning, and the concluding chapters raise important questions as to the social and economic significance of metropolitan planning in a world organized into national and international economic systems.

The authors of this volume admit what Dr. Walker asserts, that recent planning and zoning efforts have had but moderate success. Most of the problems still remain to be solved, and these essays successfully present the issues and propose interesting solutions. As such, they deserve to be read by every public planner; but the very fact that an unofficial group had to undertake this volume raises serious doubts as to the adequacy of the governmental planning machinery in the Los Angeles area. So far, it seems that Dr. Walker was right. At the same time, disturbing thoughts arise as to the capacity of any small research staff to master, not only all the topics discussed in this volume, but also all the other subjects that need to be studied, and to relate all the findings in a comprehensive plan of constantly changing content for so large and restless a community.

WILLIAM ANDERSON.

University of Minnesota.

Government and the Needy; A Study of Public Assistance in New Jersey. BY PAUL TUTT STAFFORD. (Princeton: Princeton University Press. 1941. Pp. xiv, 328. $3.00.)

Public provision for the needy has in the past twelve years become, from the standpoint of expenditures, a major function of governments in the United States, national, state, and local. Economic conditions have forced a revolution in this field. To date, situations have been met largely by improvisation and experimentation. Few students regard the results as satisfactory, whether from the point of view of the needy, the taxpayers, or the citizens concerned with the social and economic health of the nation. The time is ripe for a review of past experience, an appraisal of it, and constructive recommendations to put public relief upon a sound, constructive basis.

In this study of public assistance in New Jersey, Paul Tutt Stafford makes a major contribution of this type. He has worked in a fertile field. New Jersey has had long experience with relief, and has made noteworthy contributions to public welfare administration. Its department of institutions and agencies has for years been in the fore among state departments of public welfare. Coöperation between the members of that department and Professor Stafford and his associates at Princeton and others concerned with relief in New Jersey has been so close that the present book comes to grips with the real problems. New Jersey, too, is an industrial state that has felt the full force of the depression, and it also presents some interesting features in its residential suburbs, its shore resorts, and its rural counties.

Part I of the book deals with "The Historical Development of Legislative Policy and Administrative Practice," beginning with Chapter 2 on "The Formative Period, 1609–1800," and ending with Chapter 5, "Public

Poor Relief in Transition, 1930–1940." Chapter 3, on "The Development of Almshouse Care in the Nineteenth Century," merits special mention because it presents the results of an original study of early town and county official records.

Part II deals with "The Present System in Operation." It has five excellent chapters, combining description and evaluation: "The Scope of Public Assistance," "General Relief," "Categorical Relief," "The Federal Work Relief in New Jersey," and "The Local Agencies in Action."

Part III is "A Program for the Future." It points out two major weaknesses: (1) the excessive and illogical division of relief responsibility among the three levels of government, and (2) the lack of administrative and financial stability. "The philosophy of impermanence has prevailed in legislative halls, controlled the policy-making process, and permeated the administrative structure. Improvisation and constant change have been, and are now, the keynotes of public action."

The first recommendation is for the reallocation of functions in accordance with the following plan: "(1) The federal government should be responsible for administrative supervision over the various state programs and for the maintenance of certain minimum nation-wide standards of administration. (2) The state government should be immediately responsible for the enforcement of federal administrative standards and regulations within the state and for general supervision over the local administrative units. (3) The local governments should be responsible for direct administration of the public assistance services in accordance with federal and state regulations. (4) Financial responsibility should be shared by all three governments through a system of federal and state grants-in-aid. Federal grants should be distributed among the states on the basis of their respective needs and resources. The states, in turn, should provide subsidies for the local subdivisions on the basis of their respective needs and resources. The states would be responsible for the distribution of these federal and state funds to the localities. The balance of the cost would be assumed by the local governments themselves."

The second recommendation is for an integrated state program of public assistance, with the county as the unit of administration in the rural areas and in areas with only small towns and villages.

LEWIS MERIAM.

The Brookings Institution.

Police Systems in the United States. By BRUCE SMITH. (New York: Harper and Brothers. 1940. Pp. xx, 384. $4.00.)

Bruce Smith has compressed into a single volume an extensive knowledge and astute insight acquired during a quarter-century of intimate contact with police administration. Aspects of organization and adminis-

tration, devices for popular controls, and the general hist
ment of police administration on the federal, state, cou
levels receive adequate treatment.

A wide variety of data are given regarding the incidenc
prevalence of various types of offenses in urban and rural
tion of race, nativity, and sex to the commission of vario
the general trend in the annual volume of criminal acts by
history and importance of uniform crime reporting are
with an indication of the trend toward centralized servic
in the latter category are: clearing houses for identific
central laboratory services; and intrastate, interstate, and inter-jurisdictional metropolitan communication systems. Emphasis is placed upon the difficulty of maintaining centralized services in the presence of generally dissimilar local organizations and highly decentralized administrative authority.

The historical evolution of popular controls of police departments is carefully traced. A need is indicated for modification of restrictions to afford police heads genuine authority and to assess responsibility which cannot be shifted. Less turnover of chiefs is one direct answer to this problem. The inadequacy of present recruitment methods, because of residence and veteran preference rules, and limitation of promotional opportunities, because of seniority requirements, are set forth. Federal, state, and municipal police agencies which have no formal merit system and yet are outstanding examples of efficient administration are quoted. It is clearly shown how civil service regulations often operate to restrict disciplinary authority of police chiefs, thus reducing the effectiveness of even the best qualified leaders.

The importance of in-service training programs in recent years is pointed out, and the need for wider application of these efforts is outlined. Further development of college and university curricula to train potential police administrators also is urged. Particularly timely is the discussion of civil defense and emergencies and the mobilization of police resources in times of need.

Probably nowhere else in police literature is there a more sympathetic, yet a more critical, statement of the many forces which exert pressure to the detriment of police work in a democratic system. The importance of social, economic, governmental, and moral factors is recognized. The problem of distinguishing between many regulatory police functions and the more obvious function of repression and investigation of crime is well handled. Mr. Smith emphasizes the danger inherent in creating new police agencies to enforce each new law or to perform work of an extremely fragmentary nature.

The book is not written in the traditional text style. Mr. Smith evades

no issues; he gives personal opinions unequivocally. Wherever controversial issues are raised, the pros and cons are fully discussed. There is ample documentation and supporting evidence. Generous use is made of charts, tables, and graphs.

There exists no more complete treatment of this vital subject. Students of political science, and especially those interested in police administration, will find the book an indispensable reference.

FRANK M. STEWART.

University of California at Los Angeles.

His Majesty's Opposition; Structure and Problems of the British Labour Party, 1931–1938. BY DEAN E. MCHENRY. (Berkeley: University of California Press. 1940. Pp. xii, 320. $2.00.)

This book is not a treatise on parliamentary opposition in general, nor even a complete history of the Labour party within the period indicated, although it does contain a considerable amount of information about the party from the "Lib.-Lab." days down to the end of 1937. As Professor McHenry states in his preface, he is mainly interested in party structure. Accordingly, he concentrates upon machinery and intra-party relations, and gives only passing mention to considerations of high policy, parliamentary strategy, and the like. Appropriately, the treatment is topical rather than chronological.

This work was first published in England in 1938, as *The Labour Party in Transition, 1931–1938.* Inevitably, therefore, some of the information it contains is "dated," although this fact does not seriously impair its usefulness. One cannot help regretting, however, that a chapter on the very interesting recent developments could not have been included. The author has concentrated his attention upon the curious and complicated federal structure of the Labour party, which is in reality a congeries of semi-autonomous "parties" organized upon such diverse bases as occupation, special interests, and locality. The divergence of views implicit in such a structure is reflected in controversies over the control of party policy. Generally speaking, the local constituency parties tend to attract intellectual and middle class members and accept more radical leadership than do the trades unions. So far, the latter have been able to dominate the party Conference, but Professor McHenry foresees the future of the party as bound up with the eventual absorption of the unions into the constituencies and the simplified party organization upon a purely local basis. This, he thinks, would corespond better with the electoral system, and give the party a more complete unity than it has yet achieved, as well as making it a more truly "national" party. So far, the unions have blocked such a move, just as they have tended to retain too many seats in the

tration, devices for popular controls, and the general historical development of police administration on the federal, state, county, and local levels receive adequate treatment.

A wide variety of data are given regarding the incidence of crime, the prevalence of various types of offenses in urban and rural areas, the relation of race, nativity, and sex to the commission of various crimes, and the general trend in the annual volume of criminal acts by types. And the history and importance of uniform crime reporting are stressed, along with an indication of the trend toward centralized services. Considered in the latter category are: clearing houses for identification records; central laboratory services; and intrastate, interstate, and inter-jurisdictional metropolitan communication systems. Emphasis is placed upon the difficulty of maintaining centralized services in the presence of generally dissimilar local organizations and highly decentralized administrative authority.

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Commons for superannuated union politicians. The trades union basis of the party enabled it early in its history to assume a size and importance it could not otherwise have hoped for, but subsequently, the author believes, the semi-oligarchic control of union leaders (p. 34) has had a deadening effect upon policies and personnel.

The importance of the Coöperative party as an element in Labour party strength may be news to some American readers. This party, numbering over 5,000,000 in 1937, elected nine members to Parliament in that year, in alliance with the local labor organizations. It remains autonomous, however, as regards policies and finances.

The author frequently touches upon interesting topics, only to abandon them with a passing word. For example, he refers to the inherent danger to party unity and discipline in the fact that a Labour M.P. may owe his seat to an extra-party organization which has helped to finance his campaign. A trades union member especially cannot afford to offend his union, which controls his livelihood in or out of Parliament. Have conflicts between party and union policy actually occurred, and how often?

The chapter on parliamentary leadership is interesting but scanty, and in some cases the author's views might possibly be modified by recent events. Indeed, the whole book could well be expanded into a more important work. One wishes that the general statements were more often illustrated by reference to actual events, and that more use had been made of the dramatic possibilities inherent in the story of a great political party. Perhaps this criticism is unfair in that it amounts to a wish that the author had written a history of the party—something he did not attempt. If the book is disappointing, this may be due to the fact that structure alone is insignificant without an accompanying full consideration of party aims, policies, and methods, as well as the party's relationship to general political life and to other parties.

MORLEY AYEARST.

New York University.

War and Peace in Soviet Diplomacy. BY T. A. TARACOUZIO. (New York: The Macmillan Company. 1940. Pp. 354. $4.00.)

In the present complex international scene, no single element is more obscure and absorbing than the policies and intentions of the Soviet Union. Hidden from the world by an amazingly total censorship, Russia has played its own game in the world's current wars in such fashion as to reduce interpretation or prophecy to a matter of sheer guesswork. If there are many who claim to know the answers with certainty, they differ so fundamentally among themselves that it seems wholly justifiable for the bewildered observer to conclude that they have been guided primarily

either by wishful thinking or by an arbitrary selection of certain phases and aspects of the Soviet's activities and pronouncements.

The appearance of a serious full-length attempt to work out a definitive answer to this problem is obviously a matter for congratulation, and Mr. Taracouzio has brought together a number of materials which it is highly useful to have available. But it is to be doubted that he has succeeded in laying bare the basic motivations which have led the Soviet Union into its present equivocal position: there remain a variety of alternative explanations, and the thesis which the author advances appears to lack the inevitability with which he is inclined to invest it.

On the score of wishful thinking, it is a reasonable conclusion on the basis of the evidence presented and omitted that Mr. Taracouzio sets out with a basic hostility both to the Marxist ideology and to the Russian practice which leads him to ignore too cavalierly points brought forward by the Soviet Union's defenders. To cite a single example: in the discussion of the events of Munich there is no mention whatsoever of the fact that Russia was excluded from the four-power conference which abandoned the Czechs to their fate, nor is there any discussion of Stalin's asserted readiness to come to the aid of the Czechs if France lived up to her commitments. But it is pointed out that when the German troops marched into Prague on March 15, 1939, "Moscow's reaction was to do nothing." The failure of the Soviet Union to join the Allies in the war with Germany is termed a betrayal (although clearly from the Soviet standpoint, as stated by the author, it was no betrayal but rather a sticking to fundamental principles); but there is no examination of the thesis that Britain and France were engaged in double dealings which were substantially a betrayal of Russia.

It is the basic thesis of the author that the Soviet Union is guided exclusively, or virtually exclusively, by the dogmas of the Marxist-Leninist creed which look to the world spread of communism and regard war and peace merely as alternative means by which this goal can be achieved. From this starting point he comes to the flat conclusion that the present European war was wanted by the Third International and by the Soviet Union, that it has been "a useful thing" and a "pleasure" to them, and that they deliberately encouraged its outbreak. It should be noted that these assertions are apparently made on purely theoretical grounds without the production of any documentary evidence to support them, although in all other passages the author errs, if anything, on the side of an over-use of footnotes and direct citation. (This reviewer must, however, speak with caution on this topic inasmuch as sixteen vital pages (pp. 261–276) were omitted in the make-up of his copy of the book.)

A fundamental criticism of the approach of Mr. Taracouzio is that it is based almost entirely on Marxist-Leninist theorizing, with practically no

attention to the needs and demands of the U.S.S.R. as a state among states, as a political entity located in concrete geographical space. It ignores the possibility that the actual determinants of Russian policy at the present day may be in large measure of substantially the same order as those which shape the policy of other states: the concrete political-economic advantages of certain lines of action and the strength or weakness of the political, economic, and military instruments which must be used to execute alternative policies.

RUPERT EMERSON.

Washington, D. C.

Workers Before and After Lenin. By MANYA GORDON (New York: E. P. Dutton and Company. 1941. Pp. 514. $4.00.)

Manya Gordon's book is one of the outstanding contributions to the voluminous literature on the Soviet Union. For years, honest investigators, in their attempt to evaluate the great social experiment in Russia, have given the Bolshevik régime the benefit of the doubt and credited it with improvement of the social and economic conditions of the masses as they existed in Tsarist Russia. Now comes this study from a liberal, long a student of Russia, who has spent ten years in the endeavor to find out exactly what the Bolsheviks have accomplished in nearly a quarter of a century of rule. With her devastating pen, the author sweeps away all the pretensions of the Soviet authorities and shows how the suffering of the Russian people has brought them nothing in terms of goods and happiness. Using largely Soviet sources of information, Manya Gordon tells a story of failure and of a consistent deterioration of standards of living, the subjugation of the peasant and worker to a tyranny which in comparison makes the Tsarist suppression seem mild. The small gains which the Russian worker made beginning with the 1890's up to 1917 have been obliterated by ever-increasing pressure of government tyranny. Thus strikes have been outlawed and labor has been placed under the absolute control of the state. The fixing of wages was taken out of the hands of the workers' organizations and transferred to the directors and administrative officials of the industries; and on January 1, 1939, "labor books" were introduced, without which no worker can be employed.

In terms of real wages, the Russian worker, according to the writer, is worse off than before the first World War. Thus the present wage of the average worker can buy only three-fourths of the food value that the pre-Bolshevik wage-earner could buy, whose earnings were low in comparison with Western European standards. The book points out that with the shortage of consumer goods and the low grade of material produced, the worker in the Soviet Union is in some instances not as well off as in former days. The increase in money wages has been nullified by the tremendous

rise in prices of staple foodstuffs and goods. "The second Five Year Plan, ending in 1937, instead of making Russia the 'most advanced nation in the world,' left her distressingly ragged" (p. 245), and one might add, wretchedly hungry.

Manya Gordon's book is not pleasant reading; for whatever illusions one may have had about the betterment of the bitter lot of Russia's millions by the overthrow of Tsarism and the introduction of the new economy have been hopelessly dissipated before one has gone very far in reading the volume. On the title page, the author quotes Lenin, who in 1905 said: "Without political freedom, all forms of workers' representation will continue to be a fraud. The proletariat will remain as heretofore in prison." The Bolsheviks will do well to ponder this statement. The author completes the book on an optimistic note, hoping that the many arrests and executions indicate a strong opposition to the despotic régime of Stalin. She has faith in the Russian people, who, unlike "the cultured, docile Germans" are "fighting Slavs who are the hope of democracy in Europe. No one has paid more dearly for the ideal of liberty than the Russian people. Its victory will be the death-knell of despotism the world over!"

BERTRAM W. MAXWELL.

Washburn College.

The Political Economy of War. By A. C. PIGOU. (New York: The Macmillan Company. 1941. Pp. viii, 169. $1.50.)

The Economics of Force. By FRANK MUNK. (New York: George W. Stewart. 1940. Pp. 254. $2.00.)

The first World War brought forth a large crop of books on war economics and on war finance; understandably so, since the usual aims of economic activity were profoundly upset, the usual methods of liberal economic life were altered by emergency state actions, and new problems arose with respect to production and distribution, as well as with respect to private and public finance. The challenge of a cataclysmic war was met, and during the war, and particularly after it was over, economists proceeded to make a study of these new and perplexing problems. Among the books written at that time in England was a little volume published in 1921 by Professor A. C. Pigou of Cambridge. Small in size and deep in analysis, this volume had another valuable service to render less than twenty years after it was first published. The present new edition, written in the fall of 1939 and now made available in this country, will once again prove an invaluable help to the study of war economics. It was written primarily for economists, but will be readily understood by the trained college graduate. It should be very useful to the political scientist.

The subject-matter of the book covers the war-time problems that have to be faced by the economic life of a democracy. It does not extend to the

problems of a totalitarian war economy. Within its limits, the book provides a very careful survey of resources (both real and financial) and their war-time distribution; of fiscal policies with respect to both taxation and borrowing; of price controls made necessary by the exigencies of war; of rationing, particularly as regards consumers goods. There are chapters on monetary policy, on the regulation of imports, on priorities, etc. Problems that arise out of the need for more advanced types of planning in order to direct an ever larger amount of resources towards military needs are not discussed. They are rather particular to this present war, and their emergence in England post-dates by about a year the writing of this book. Apart from that, the totalitarian techniques, some of which democracies had to borrow from their opponents under the pressure of events, are primarily matters of administration and of industrial organization; and all such matters Professor Pigou leaves explicitly outside the scope of his study. The book thus covers only a part of the problems which have to be faced in pursuit of the modern war, but that part is dealt with in a masterly way.

Dr. Munk's book is concerned with the totalitarian phase of war economics and with the economic policies of the totalitarian state in general. As the author says in his preface, the book was written very hurriedly and is intended for the non-technical reader. That reader will find in it a discussion of various aspects of the totalitarian state and of its economic planning, as well as much information regarding the problems of the totalitarian war. The title is very catching, but does not convey any very clear idea, and the text fails to provide a clear-cut definition of the notion of "Economics of Force." To contrast it with "Economics of Welfare," as the author does, is not sufficient, since this is also applicable to the usual term of "Economics of War." Chapter 7, which attempts to provide an answer to this question, leaves the reader pretty confused. The sections dealing with the structure of the totalitarian economy and with the use of force instead of the market mechanism of the liberal economy are the best in the book. It is a pity that the purely economic analysis is not pushed a little more deeply. Many excellent formulations are to be found throughout the book, but there are also many generalizations and statements which to this reviewer appear highly debatable. For example: "The crisis through which the world is passing today has been called a war. Much more appropriately it should be called a revolution . . . " (p. 15); "Communism stands half-way between Democracy and Nazism" (p. 38); "Even if totalitarian methods are used in foreign trade, internal business relations should be continued on a democratic basis" (p. 189); etc. The last statement quoted seems to assume that such a combination is possible—an assumption which is very dubious. Dr. Munk's strong stand against the reign of force and his defense of liberal

institutions are well stated and more than welcome. The book would be more satisfactory and more useful if the material that it contains were better organized and supplemented with additional data, if the economic and political arguments were more closely reasoned, and if some of the easy, slogan-like phrases were dropped. But even as it stands it is a readable and interesting volume.

MICHAEL A. HEILPERIN.

Bryn Mawr College.

They Wanted War. BY OTTO D. TOLISCHUS. (New York: Reynal and Hitchcock. 1940. Pp. viii, 340. $3.00.)

The 1940 winner of the Pulitzer prize for foreign reporting was a *New York Times* correspondent in Berlin from the time of Hitler's advent to power until the early summer of 1940, when he shared the fate of other good journalists stationed in Germany by being expelled from the country. Drawing freely on his dispatches and articles during these years, he now ties them together into a panoramic view of recent current history. Through his searching eyes we see the enormous and far-reaching efforts contained in Nazi Germany's preparations for total war, her smashing blows against Poland, and the establishment of the "new order" in Eastern Europe. There are chapters on Nazi economics, fifth column organization methods (Tolischus is well remembered for his early and well-documented exposé of the organization and working of Nazi organizations in non-German countries), Nazi psychology, war aims, and civilian morale. The impact of the war on the average German, the awakening to the fact that the boys would not be home by Christmas (1939), the intensified regimentation, the rapid drop in standards of living, and the great levelling process initiated in the name of "German socialism" are vividly portrayed; as are the clock-like precision of the German army, its all-around efficiency, its brains, its mechanized strength which smashes a foreign army with well-aimed, hard-hitting blows only to withdraw again and again when it comes to differences with the Nazi administration, especially the forces of the SS.

The book is journalism of high merit—a fine blending of investigating ability and reader appeal. Some of the appended dispatches on the fate of Poland which are reproduced in their unabridged, original form are journalistic classics that have not lost their breath-taking vividness with the passing of time. The importance of the book, however, goes beyond its values as a piece of excellent reporting; it is a story of Nazism in action on the international scene which is authentic in fact without being buried alive in academic aloofness; it is gripping but not heated; it compels reflection on the urgent implications for America rather than emotional confusion. It is strongly recommended to students of current affairs, who

will find valuable and extended excerpts of source materials interspersed with the text, and a good index for quick reference.

JOHN BROWN MASON.

Fresno State College.

The Reconstruction of World Trade. BY J. B. CONDLIFFE. (New York: W. W. Norton and Company. 1940. Pp. 427. $3.75.)

Despite the tacit promise of its title, this book offers neither a blueprint nor a prophesy for the post-war world. A scientist rather than an architect or a soothsayer, Professor Condliffe presents a careful survey of the processes by which the traditional pattern of world trade has disintegrated and new forms have arisen, analyzes the major contributing factors, and assesses some of the conditions and pressures with which future economic statecraft will have to reckon. In so doing, he has provided a document which, because of its close adherence to political and economic realities, and its sane, judicious temper, represents a more fruitful addition to the growing bookshelf on the shape of the world to come than many of its more stylish contemporaries. If it were less ponderous in composition, more incisive in narrative and argument, the book would achieve the wider circulation its material deserves. It is a pity that good political economy must sometimes be dull political economy.

The analysis of the development and character of national governmental restrictions which obstruct, and in some respects destroy, the traditional capitalistic, multilateral, non-discriminatory basis of world trade is searching and full of suggestion. In exploring the causes of the phenomena, Professor Condliffe cites the familiar facts of profit-drives, inflamed nationalism, and latterly, the quest for military potentials, and the use of trade as a political instrument. But, in addition, he points out a factor which though patent is frequently ignored—the progressive decline of *laissez faire* on the domestic level passing over into the international sphere. As state regulation and control has naturally followed upon the failure of a privately operated economy to meet social requirements, so, he declares, there is "no possibility of restoring a world-wide system of expanding trade based on free enterprise" (p. 149).

The problem, then, is not one of control vs. absence of control; it is, rather, what *kind* of control should be exercised if a world trading system is to be restored? Professor Condliffe sees little hope for the effective integration of economies which are state *operated;* but if state activity is confined to the regulatory function, "such integration is not inconceivable, but will demand the invention of new types of international political and economic institutions" (p. 353).

What form these institutions might take would depend partly on the military outcome of the war. A German victory would undoubtedly ac-

celerate the trend toward regional blocs, but no matter how the war ends, he argues, the development of great economic regions in which a group of satellites, more or less politically autonomous, surround a metropolitan center is quite possible. If democracy triumphs, this may be accompanied by federating movements. This politico-economic integration solely within geographical segments would be avoidable only as a result, he insists, of the effective intervention of the United States on behalf of a genuinely international system. Without the assumption by the United States of a responsibility for world economic leadership, the development of regionalism (which the author views with misgivings) may be the only course available.

The careful interweaving of economic and political factors which distinguishes so much of the treatment in the book is less conspicuous in the final chapters which sketch the possible outlines of future developments. For while, on the one hand, Professor Condliffe sees the desirability of a broadened international authority (perhaps that of a reconstituted League) to exercise control over cartels and to supervise technical organs of international economic coöperation, he leans toward the recommendations of the Bruce Report to separate the economic functions from the political. This line of reasoning, it is submitted, all too frequently leads to dangerous pit-falls. Peace is not regional; it is indivisible. If political peace and security are not preserved on a world scale, there would seem to be little chance for the growth of durable international economic collaboration. Doubtless the author would agree with this assertion; but he lamentably fails to develop the possible lines of political, to accompany the economic, reconstruction.

WILLIAM P. MADDOX.

University of Pennsylvania.

Barriers to World Trade; A Study of Recent Commercial Policy. By MARGARET S. GORDON. (New York: The Macmillan Company. 1941. Pp. vii, 530. $4.00.)

A few years ago, the tariff issue was merely one knotty plank in each major party's platform. Such platforms were looked upon as both wobbly and temporary in character. The treatment of foreigners' exports to the United States was not regarded as having anything to do with a multitude of supposedly more important internal affairs. Lately, we have heard less of tariffs in general, more of import quotas, exchange controls, bilateral bargaining, and barter in international trade—and the relation of these to a host of internal problems. *Barriers to World Trade* gives the reader a comprehensive picture of the shifts from tariffs to exchange manipulation and quota systems for imports. It does not attack these "evils" with a barrage of sarcasm and name-calling reminiscent of our traditional free

traders. It considers the situation in each country which has given rise to the use of the current techniques, and then examines the total result in its effects upon foreign trade, the policies of neighboring countries, and the consequent internal backfire and repercussions. Before he has finished, the reader is aware of the manner in which foreign trade policies cut across almost every important phase of domestic affairs.

This study of recent commercial policy considers the abnormal measures necessitated by the war; the breakdown of the gold standard; and the control of international payments—particularly the spread of exchange control from 1931 on. Next dealt with is the control of the international movement of goods through the new tariff policies after 1931, the increased use of import quotas and other forms of import restriction, and export promotion and control. The final section deals with commercial bargaining: bilateral agreements in general; the bargaining policies of four leading countries (the United States, the United Kingdom, France, and Germany); and regional and multilateral negotiations. Thus the author gives an excellent perspective to a subject which previously has been presented piecemeal in a multitude of monographs.

We can agree with Mrs. Gordon that the regulation of prices, wages, working conditions, rents, and other elements in the domestic economic structure tends to interfere with the competitive position of a nation's industries in international trade. This leads to a demand for protection or subsidization from producers who find their competitive power weakened. Such trends toward regulation by introducing rigidities into the price structure make it more difficult for a nation to adhere to an international monetary system. "The greater the emphasis on internal price stability, whether for individual industries or for the nation as a whole, the greater the likelihood that governmental intervention in international trade will take the form of quantitative restrictions rather than tariffs. But the introduction of quantitative trade restrictions is likely to lead, as we have seen, to internal price-fixing and rationing which, in turn, gives rise to other controls" (p. 483). All of which reminds one of the ancient query as to which came first, the hen or the egg. Was it tariff policies that led to monopolies and trade association price-fixing internally? Or was it internal price-fixing that first led to the demand for protective control of imports? Perhaps it does not matter, now that both the hen and the egg are with us. But all students of government will be interested in knowing how inextricably our internal and external trade policies are involved.

That the progress of technology has greatly increased the potential advantages to be derived from world economic integration has been ably argued by Eugene Staley in *World Economy in Transition*. That the pressure of powerful political forces is making for general disintegration of the established channels of trade is more apparent to all of us. Granting that

world economic integration is desirable for the maximum benefits of technological progress, is it conceivable in the absence of an effective international political organization? This seems to be the question of the hour. As to just where we shall go from here, the author seems less optimistic than the proponents of "union now."

Mrs. Gordon's selected bibliography is the best I have seen in this field.

JOHN DAY LARKIN.

Illinois Institute of Technology.

Union Now With Britain. By CLARENCE K. STREIT. (New York: Harper and Brothers. 1941. Pp. xv, 234. $1.75.)

Mr. Streit's 1941 proposal is not a mere truncation of his pre-war plan for federal union of fifteen democracies. Whereas the 1939 project was aimed to *prevent* war, the union of the United States with Britain and her Dominions (including Eire) is presented as the only means of *winning* the war. The author agrees with Roosevelt and Churchill that an American Expeditionary Force is not needed, although the Navy and Air Force are. The German people, after the onward march of Nazi troops has been halted, will unhorse Adolf Hitler (as they did Wilhelm II) in order to stop the war and gain the advantages of union: full political and economic freedom plus equal opportunity in the Union's colonial territories. Membership would be open to "peoples who have long governed themselves democratically, or who prove their readiness . . . by the way in which they restore at home their own free rights." Also, "the day Germany is admitted to the Union, the problem of world disarmament is practically solved." Hence, Union is the way to win the peace, too.

The union project, sustained by Streit's copious excerpts from Lincoln and the Founding Fathers, makes strong appeal to the heart of the political scientist, and has made some headway with the man in the street. But to secure Union Now (within a year), the author employs nationalistic appeals hostile to the union idea. Sustained stress is placed upon the proposition that America would have twenty-seven votes out of forty-nine in the unicameral Congress of the Provisional Union, whereas under an alliance with the British Commonwealth we should have only one out of seven.

Of course Union Now means War Now, but Streit regards it as almost inevitable that we will fight anyhow; for our democracy is threatened with invasion. If we do go to war, Union might become politically feasible; and its extension to enemy states would then become a cardinal peace aim. In the annexes, the author adds a suggested Declaration of Inter-dependence and Union, a constitution for the Provisional Union, and a constitution for the definitive Union—effective after popular referendum in each Member Democracy.

Despite the moralizing tone which pervades every paragraph, political scientists will appreciate this journalist's dramatization of Union in concrete terms. They may also be piqued by his somewhat novel discussion of Union as an antidote to over-centralization, and of Union's constitutionality.

H. SCHUYLER FOSTER, JR.
Ohio State University.

Night Over Europe; The Diplomacy of Nemesis, 1939–1940. BY FREDERICK L. SCHUMAN. (New York: Alfred A. Knopf. 1941. Pp. xv, 600. $3.50.)

In his preface, Professor Schuman tells us that this volume concludes a trilogy which, taken together, "purport to tell how and why democracy committed suicide and delivered Europe and the world over to the mercies of the Fascist Caesars." This pessimism runs like a thread throughout the book. He speaks of the Western democracies as "decadent societies . . . rich in villainies" (p. 188); of "those who still envisage the course of human events in terms of Causality rather than in terms of Destiny" (p. 195); "Poland's agony foreshadowed the death of the world . . . " (p. 376); "The war in the West was lost long before it began" (p. 444).

Mr. Schuman is, in fact, punch drunk. He walks down the street waving his arms and expostulating as to what a bad world it is. What he says is largely correct, and he is justified in saying it, but misfortunes have got him down; he has been shocked into desperate words. Probably it will do some good to say them in this fashion. Perhaps by now he has a little more hope; perhaps he may yet survive to write a book entitled "Dawn over Europe." He himself spys some slight gleams of light. By p. 591, inescapable doom has been diminished to a "not improbable final victory over the West"; by p. 594, he has found an answer, and it is the correct answer: "The prime prerequisite is recognition that the world society is one, and that it must be reconquered from the barbarians and reordered as a single polity in which justice for each is protected by the organized might of all. . . . The Fascist vision of a united and ordered world can be overcome only by a better vision of a united and ordered world put forward by the democracies and fought for with comparable foresight and valor." He asks for an Anglo-American federation, with Russia as an ally, and others to enter as they will. He even thinks this is a possibility, though a bare one—bravo! *Nil desperandum* is a better motto than Destiny.

In the past record of the democracies there is ample ground for pessimism, but one democracy is now redeeming itself, and even the wishful United States is rousing itself. The irresponsibility and tergiversations of the democracies deserve excoriation. "They were undone by fear of losing elections if they warned the masses of dangers which the masses preferred not to face" (p. 20). And the American democracy cannot escape its share

of the blame: "In the United States as elsewhere, the physiology of decadence manifested itself in the widespread view that risks could be avoided by shunning responsibilities, and that escape from duty was the best road to escape from danger." The author is not writing in terms of political theory, but he contributes to it by advising the disciples of democracy that "they must overcome the flabbiness which permits leaders to evade the duties of leadership or obliges them to engage in dubious battle with self-seeking lobbies, pressure groups, and stubborn minorities in legislative assemblies. They must support government that governs. They must relegate to the dead past the belief that liberty can be safeguarded by limiting to narrow scope the powers of government or by maintaining checks-and-balances which spell paralysis. . . . They must fight 'despotism' by the means used in all ancient democracies, by the only means which will serve —i.e., by 'dictatorship' to meet crises, by one-man rule if need be so long as danger threatens, and it will threaten until the world is reborn" (pp. 596–7).

The picture of the events leading up to the war and through the collapse of France is painted in full detail; what parts of it will fade out, and what parts will be painted in later cannot now be foretold. It is much to be doubted that the documentation, even within limits, is complete (p. vi), but Mr. Schuman has done a thorough job of covering the information at hand. His conjectures and conclusions may or may not satisfy, but he is sound in so many instances that he is entitled to consideration in all others. The argument concerning class attitudes and powers cannot be contemptuously dismissed; it may be the explanation of a world revolution. The demand for coöperation with Russia cannot be dismissed simply because one does not like communism; we have to live in the world with many things we dislike. The criticisms of democracy are vital and should be taken to heart. And it is impossible to dismiss as idealistic or unrealistic the contention that the only way out of current anarchy is an organized community of nations—which cannot be successful unless the United States is in it. War, and even victory, is insufficient in these days; more is required.

CLYDE EAGLETON.

New York University.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

E. F. Bartelt's *Accounting Procedures of the United States Government* (Public Administration Service, pp. xii, 155, $4.50) consists of a series of papers originally presented to various groups throughout the United States. The treatise is essentially an historical and descriptive discussion

of the activities of the United States Treasury Department and of the accounting methods used by the United States Government. Although there is some duplication in the background material, the successive chapters develop distinct topics and present separate phases of the government's business or accounting procedures. Subjects dealt with include Treasury functions, the application of mechanical aids in the accounting system, central accounting procedures, administrative accounting for emergency relief expenditures, control of federal expenditures, a plan for integrating the various accounting systems, and fiscal and accounting relationships among governmental agencies. The author views the problem of improving the government's accounting system as one phase of the larger problem of administrative management. He suggests, therefore, that the country be divided into twelve or more fiscal districts, in each of which there would be service agencies responsible for the following functions: personnel, procurement, collection, disbursement, accounting, and auditing. The agency responsible for auditing would be independent of the executive branch and would be under the direction of the Congress. All the other agencies would constitute a part of the executive organization. The district or branch accounting agencies would exercise general supervision over the account-keeping functions of all federal activities in the district, maintain summary controlling accounts relating to the financial operation of all federal activities within the district, and render periodic financial reports to Washington for consolidation in a composite financial report for the government as a whole. Mr. Bartelt recognizes the need for integrating our federal accounting system, and his proposals to this end seem both practical and wise. His clear presentation of a highly intricate subject prompts the reviewer to express the hope that the author will explore the subject of federal financial administration more fully in future publications.—MARTIN L. FAUST.

Farmers in a Changing World; Yearbook of Agriculture, 1940 (Washington: Government Printing Office, pp. xii, 1215, $1.50) is the fifth in a series of the yearbooks presenting a record of exploration in agriculture as related to humankind. Though the yearbooks since the inception of the present type of reporting in 1894 have been designed to be of interest chiefly to the farmer, this one, more than any other, views the farmer as a citizen concerned with his occupation as a part of the nation's future. The average citizen may sincerely hope that "explorations along the social and economic frontiers of agriculture" may be of no less interest to the farmer because of this fact. Instead, it is believed that the farmer's appreciation of the synchronization of his occupational interests with those of others may invite and hold his interest as well, so that our agricultural policy may keep step with the new needs arising from the profound disturb-

ances throughout the world and that there may be a sharpened recognition of interrelationships. This yearbook disclaims any attempt to represent official policy, but invites differences in viewpoints upon the social and economic implications in agriculture. The work consists of three general sections. An excellent one-hundred-page summary is followed by fifty-four articles organized in seven parts dealing with: "The Farmers in a Changing World"; "Agriculture and the National Welfare"; "The Farmer's Problems Today and the Efforts to Solve Them"; "Farm Organizations"; "What Some Social Scientists Have to Say"; "Democracy and Agricultural Policy," and is concluded with an appendix presenting a brief "Chronology of American Agricultural History." In the first section, a history of American agriculture provides background for the topics that follow. Maps, charts, footnotes, and a few well chosen bibliographies should prove helpful. Though Henry W. Spiegel's *Land Tenure Policies at Home and Abroad* (University of North Carolina Press, pp. xii, 171, $3.00) bears a comprehensive title, it is restricted practically to analysis of tenure policies in the United States, England, and Germany, with only brief or incidental reference to France and other Continental states. It is not claimed that the analysis of land tenure policies is conclusive, and this is particularly noticeable in their consideration in the forty-eight states. A careful, detailed analysis of the total impact of state tax laws upon land tenure would be welcome. A more detailed analysis is made of the English and German policies. Numerous tables, generous footnote references, and a well chosen bibliography should prove helpful to the student of the question. The consideration of the effects of institutional and economic factors upon public policies will interest the student of politics.—H. C. Cook.

Through the resources of the Tennessee Valley Authority, Dr. M. H. Satterfield and others have completed a valuable study, based upon governmental documents and field investigations, entitled *County Government and Administration in the Tennessee Valley States* (Tennessee Valley Authority, pp. ix, 144, on request). This study outlines the organization and functions of counties, examines their suitability as agencies of administration, and describes the more important trends in county government in this region. For example, it takes note of such tendencies as the cessation in the creation of new counties, the concentration of administrative authority in some county court, commission, or official, the extension of county liability, and the creation of additional special districts where proprietary functions are assumed. The study emphasizes the fiscal inadequacy of the county as a unit of government and notes the attempts to seek state and federal aid. Moreover, it points out the sporadic character of systems of real state administrative control. Prophecy as to the future

goes no farther than a prediction of what may be expected if present trends continue, namely, that there will be increased functional consolidation and a reallocation of functions, with state assumption of those which cannot be performed economically by the counties. The study discusses separately the administrative practices for each service in each of the states, making the treatment somewhat repetitious, yet this plan presents a good comparative picture and numerous examples of problems peculiar to rural local government. A somewhat fuller discussion of such newer activities as planning, housing, and electric power distribution would have been welcome, and perhaps less objectivity would have given a more realistic appraisal. Nevertheless the study is a definite contribution to the field of rural local government. It is enhanced by eighteen valuable tables, a selected bibliography, and a suitable index.—WILLIAM H. COMBS.

Drawing upon his studies for a biography of Mr. Justice Brandeis, Alpheus T. Mason has incorporated a segment of them in *Bureaucracy Convicts Itself* (Viking Press, pp. 224, $2.50). The product is a volume which is more than a fragment struck off from a larger endeavor. It is, in itself, a recreation of what, as Mr. Mason observes, might have become an American Dreyfus affair, the Ballinger-Pinchot controversy of 1910. In the main, a piece of straightforward historical narrative, the book represents, in its larger sense, an exhibit for the defense of the democratic processes in their unending opposition to high-handed bureaucracy. The author digs into the baker's dozen of volumes containing the records of the congressional investigation of 1910 which explored the dispute resulting in the dismissal of Louis C. Glavis and Gifford Pinchot from the Department of the Interior. The story, constructed from these and other sources, has a villain—Ballinger, whom the author finds incompetent and vindictive rather than designedly criminal. If there is a hero, it is Glavis, for Mr. Mason allows him more praise than he gives Pinchot. True, a major portion of the book describes the tenacity and ingenuity Brandeis displayed throughout the hearings. But the author leaves the full measure of his stature for a later appraisal. Professor Mason gives a bill of particulars against Ballinger from the time he was Commissioner of the General Land Office, in 1907–1908, until he stepped down as Secretary of the Interior in 1911, after the "whitewashing" by the congressional committee's partisan majority. It cites chapter and page against President Taft, Attorney-General Wickersham, and lesser figures in the case. It answers the exoneration of Ballinger by Secretary Ickes, who reopened the controversy in a magazine article last year. Because it reads from the records, this book rings true and resets the values of judgment which have lately been somewhat dislocated by less thorough investigators. The volume is illustrated with contemporary cartoons. It might have profited from more quotations

from contemporary newspapers, especially those in sections of the nation where conservation was a lively issue.—HILTON P. GOSS.

In every era of reform in the relations between government and society, a time arrives when reform legislation is substantially complete and the more difficult period of administration and enforcement sets in. At this critical turning point, a genuine need arises for a stock-taking literature drawing together by field and function the laws that have come piecemeal from the legislative mills. As one volume in an excellent series designed to portray "American Government in Action," Emanuel Stein's *Government and the Investor* (Farrar and Rinehart, Inc., pp. xv, 219, $1.00) meets that need in the field of security finance. In clear and simple narrative, the book covers the four indispensable aspects of the subject: (1) a brief résumé of security flotations and marketing; (2) a description of the conditions creating the demand for reform; (3) an exposition of the reform legislation; and (4) the administrative process in action. After describing with admirable brevity the rôle of the corporation and the securities markets in modern economy, the author points up the problems which each have thrust upon government and investors. This background is sketched with insight and fairness and is free of the emotional furor accompanying reform largely because the data are drawn from the exhaustive investigations of scholars and legislative committees. Against this background, subsequent chapters project the main provisions and detail the operations of the Securities Act (1933), the Securities Exchange Act (1934), the Public Utility Holding Company Act (1935), and the 1940 laws dealing with investment companies and advisers. This drawing together and digesting of diversified legislation is an important service which the author performs skillfully and which the publishers present in excellent format at an incredibly low price. Perhaps, therefore, it is looking the gift horse in the mouth to say that the value of the book would have been increased by an enlargement and more critical discussion of the administration of the laws; and that a bibliography of current materials on this phase of the subject would have made a real contribution.—GEORGE H. E. SMITH.

Mayne S. Howard's *Principles of Public Finance* (Commerce Clearing House, Inc., pp. vii, 438, $4.50) follows the conventional pattern of treatises in this field in that more than three-fourths of the discussion deals with the revenue aspects of public finance. Such topics as expenditures, public budgeting, debts, and problems of war finance are dealt with in brief summary chapters which contribute little to an understanding of these vital subjects. In his treatment of revenues, the author's method is to enumerate in the respective chapters on the different kinds of taxes all the considerations that have been advanced in their favor and all the con-

siderations advanced against them. There is, in addition, an elaboration and analysis that covers both problems and points of view relevant to the specific type of taxes under discussion. The author has definite convictions as to the kind of tax system we should have. In his foreword, he predicts that the pendulum will swing away from the regimented state, and that Adam Smith's conceptions of government will again prevail. The integrated tax system which he outlines for the United States would place chief reliance upon a personal income tax. A property tax on land and a property tax on improvements on land would be restricted to local governments. Special luxury or consumption taxes on luxuries, particularly on alcoholic beverages and tobacco, should be made as high as their effective administration permits. Taxes on motor vehicles should be as high as the reduction in total transportation costs warrants, and customs revenues should be imposed primarily for revenue. His plan definitely rejects such revenue sources as the following: tangible and intangible personal property taxes, corporation taxes, general sales taxes, special consumption taxes on necessities, business taxes of all kinds, and special assessments. The author is undoubtedly optimistic, and hardly a realist, when he endeavors to devise a tax system on the assumption that the regimented state will fade away. While he is positive in his views on tax matters, it is decidedly to his credit that he proposes in every chapter problems and questions which require further research and study. This is the distinctive and unique feature of the treatise. He has supplied us with excellent suggestions for research in the public finance field. There are no footnotes or bibliographical references of any kind.—MARTIN L. FAUST.

Herman Kobbe's *Housing and Regional Planning* (E. P. Dutton and Co., pp. 233, $3.00) devotes most of its nineteen chapters to the problems of planning and housing as they appear in the New York metropolitan region. The book is well illustrated and provides a mixture of detailed material on land and housing design and layout with a rather sketchy discussion of several fundamental problems of regionalism, transportation, education, handicraft or mechanical economy, land ownership, etc., which it is suggested can be radically reformed through the medium of a regional planning authority. To the reviewer, the most practical part of the book consists of the detailed material, derived from the author's professional experience as an architect—particularly the plans for various types of multiple dwellings and their layout on available land so as to permit of the most economical use of sunlight, the discussion of the design of stairs and roofs, and the discussion of yards and gardens. Many public administrators and economists would pick practical flaws in the proposed draft of legislation providing for a Metropolitan Regional Land Authority, in the plans for combining education and production, and in the means sug-

gested for financing the tremendous costs of social-service housing. "The Authority [presumably the author] feels that the deficit in the housing program should be finally paid for, not by levying higher taxes at all, but by effecting economies in the form of better planning and engineering. Great sums can be saved by elimination of unnecessary travel; by using foresight in the development of a sound land policy; by establishing an adequate wage level and labor schedule in the construction industries; by purchasing materials on a system suited to the vast size of the construction program; and by applying techniques of machine production and prefabrication to the operations of building." In any case, people will enjoy reading Mr. Kobbe's little book, with its practical details and its trenchant criticism of current practices. Even its more or less utopian suggestions for reform of our living patterns will stimulate the imagination and perhaps broaden the perspective of planners, if only they had something to use for money.—C. C. LUDWIG.

The second yearbook of the Harvard School of Public Administration, *Public Policy* (Harvard University Press, pp. viii, 458, $4.00), edited by C. J. Friedrich and C. S. Mason, maintains the high level of the first yearbook. It centers around the fiscal problems of our national government, although other topics are included. In fact, the excellent opening paper, by Karl R. Bopp, deals with the struggle for power between the French government and the Bank of France. Even this, however, may have relevance to the current fiscal problems of our national government. Papers outside of the field of federal finance include studies of the new antitrust procedure, by Corwin D. Edwards; the background of the Hatch Act, by Otto Kirchheimer; control of broadcasting in war-time, by C. J. Friedrich; and national defense planning, by O. L. Nelson. The methods of approach vary as widely as the subjects. An excellent analysis of deficit financing by B. Higgins and R. A. Musgrave is an essentially theoretical discussion. An essay on federal budget procedure by R. H. Rawson is largely descriptive of present practice, although accompanied by a constructive critical appraisal of procedures. And a study of the effect of federal government expenditures and taxes on the distribution of income, by C. Stauffacher, is primarily a statistical analysis. This last paper delves into an important and neglected field of fiscal research, and it is to be hoped that the author will pursue its further. Other financial studies include two budget papers by Spencer Thompson and H. S. Perloff, a study of government purchasing by A. M. Freiberg, a paper on foregin trade and the business cycle by W. A. Salant, and studies in comparative administration by Arnold Brecht. It is not to be expected that any essential unity will be achieved in such a series of essays, but taken as a whole these emphasize the breakdown of the once sharply drawn lines between political

science and economics and between politics and administration. Most of the authors have been able to draw on all of these fields in so far as they relate to the specific problem in hand; and the resulting reorientation of materials offers a fresh approach and a fertile field for constructive research.—MABEL NEWCOMER.

In their *Michigan Retail Sales and Use Taxes* (University of Michigan Press, pp. 154, $0.75), Professor Robert S. Ford and Mr. E. Fenton Shepard, of the University of Michigan Bureau of Government, give a very illuminating presentation of Michigan's experience with these taxes since the former was adopted in 1933 and the latter in 1937. This monograph revises, expands, and brings down to June, 1939 (in some cases to March, 1940, but in others only to 1938) Professor Ford's 1936 study of *The Retail Sales Tax in Michigan*. After an introductory chapter on the recent sales tax movement in the United States, and on types of sales taxes and their incidence, the authors discuss the general features of the Michigan sales tax; administrative problems; comparative practices in other states, particularly Ohio, Indiana, Illinois, and California (the last-named is the only one of the five having a general net income tax); financial results; and constitutional problems. They then devote a special chapter to the Michigan use tax and a short one to conclusions regarding both taxes. A good bibliography and an index enhance the value of the report. For the past several years, Michigan's three per cent retail sales tax has yielded over $50,000,000 annually, enough to reduce property tax levies substantially—in fact, sufficient to eliminate such levies for state purposes—and also enough to increase substantially the aids to education and other funds. The use tax has brought in relatively little revenue directly, but it has enabled the state to circumvent much of the difficulty formerly encountered because of federal limitations on the state taxation of interstate commerce. Perhaps the most outstanding and unexpected impressions that the layman will get from this study relate to the great numbers and complexities of administrative and legal difficulties connected with these taxes. This monograph should be very helpful to tax students of all other states as well as to those of Michigan.—ROY G. BLAKEY.

Angered by the civil service system forced upon it by an initiated constitutional amendment last year, and fearful that Detroit and other cities will force reapportionment upon it by use of the initiative, the Michigan legislature placed on the ballot for the spring election a "constitutional amendment to make it much more difficult to amend the constitution again." Thus *The Initiative and Referendum in Michigan* (Bureau of Government, University of Michigan, pp. 100, $0.50), by James K. Pollock, is timely indeed. The foregoing action of the legislature corroborates the au-

thor's contention that the legislature is the chief critic of direct legislation in Michigan. Under the headings of history, legal aspects, general results, electoral behavior, and political aspects, he has done a scholarly piece of research and stated his findings concisely with the aid of tables and graphs. He makes repeated comparisons with the experience of other states and concludes that Michigan voters have been sparing in their use of the initiative and referendum, that they have been conservative in their voting on proposals, and that they are satisfied with direct legislation as an institution of popular government and desire its maintenance for their own protection.—O. GARFIELD JONES.

Government Purchasing; An Economic Commentary (U. S. Government Printing Office, pp. xix, 330), issued as Monograph No. 19 by the Temporary National Economic Committee, makes a most welcome contribution to the limited information available on federal purchasing practices and problems. The study was prepared by Messrs. Copeland, Linnenberg, and Barbour, of the Division of Statistical Standards, Bureau of the Budget. As the authors readily admit in their Introduction, the work falls far short of being a complete picture of federal purchasing. They point to an astounding scarcity of statistical material upon which to base such a study. No one agency gathers statistics on federal purchasing as a whole. The Procurement Division has done so only for the period from December, 1937, through June, 1939, and has published the data for the twelve-month period December, 1937–November, 1938. This is included as appendix material in the present study, making up about 165 pages. To complicate matters further, the various federal agencies keeping partial records of federal buying use five different commodity classifications. On the basis of available materials, the monograph discusses the scope and characteristics of federal purchasing, evidences of bad timing and collusion, lessons of federal procurement in war-time, and possible improvements. In the latter connection, the point is made that business, and not social considerations, should control in government buying. Among improvements suggested are greater use and flexibility of long-term contracts, and governmental production of selected commodities. Brief comments on state and local buying also are included.—CHRISTIAN L. LARSEN.

A valuable addition to the critical studies of pressure politics is *Economic Power and Political Pressures*, which is Monograph No. 26 of the Temporary National Economic Committee (Senate Committee Print, U. S. Government Printing Office, pp. ix, 222). It was written by Donald C. Blaisdell, who was loaned to the T. N. E. C. by the Department of Agriculture. He writes from the double experience of political science teaching and government service, and in making his interpretation he uses aca-

demic sources as well as official reports. He covers various types and techniques of lobbying and lobbyists, including the labor front, government officialdom, and business. He surveys the activities of the large utilities, the U. S. Chamber of Commerce, and the National Association of Manufacturers. There is an unwieldy fluctuation in the policy of organized labor. Government policy lacks consistency, with changes in parties and personnel. But the author notes that business groups, particularly big business groups, change less in policy through the years and have the superior staying power combined with cohesion, invisibility, resources for pressure, and control over technology. He notes the "stalling" on the defense program until business got tax legislation to its liking, and says: "Speaking bluntly, the Government and the public are 'over a barrel' when it comes to dealing with business in time of war or other crises. Business refuses to work, except on terms which it dictates." These words have found place in labor papers. Mr. Blaisdell would modernize government as a check to the power of big private business. A large assignment!—H. CLARENCE NIXON.

The Report of the Attorney General's Committee on Bankruptcy Administration, 1940 (U. S. Government Printing Office, pp. xvii, 330) contains an exhaustive analysis and appraisal of the actual practice of bankruptcy administration and constructive proposals for modernizing the machinery and processes thereof. The basic materials for the report were obtained by consultation with experienced administrators and organizations having specialized knowledge of bankruptcy, field studies, reports, and examination of numerous cases. The committee found that the substantive matter of the bankruptcy act was adequate for the exigencies of the time, but that the diffusion of responsibility and the lack of centralized supervision in administration frustrated the attainment of the objectives set by the law. In the opinion of the committee, these major defects can be remedied by setting up, in the administrative office of the United States courts, a division of bankruptcy with adequate managerial powers and by creating a corps of full-time salaried referees.—JOHN P. SENNING.

Austin F. Macdonald's *American City Government and Administration* (Thomas Y. Crowell Co., pp. 661, $3.75) is almost unique among textbooks on municipal political science because it tries to give comprehensive treatment to problems of administration as well as of politics. Considerable success attends the effort in the third edition. In addition to fresh sections on such subjects as housing, welfare, motor parking, public relations, and tax exemption, there are new features such as a tabular analysis of municipal functions and a table of cases. For the most part, the merits of the earlier editions are carried over, among them, for instance, the excel-

lent chapter on "The Theory of City Government." Yet a fourth edition could be improved by correcting the facts in the footnote (p. 415) on planning in Chicago, by including the works of Henry George in the bibliography on planning, and by expanding the section on libraries.—JOHN A. VIEG.

The chief contribution of William Hays Simpson's *The Small Loan Problem of the Carolinas, with a Commentary on Regulation in Virginia* (Presbyterian College Press, pp. 154) is its study of 2,223 small borrowers in the Carolinas. Simple statistical treatment of these borrowers shows their weekly wages, length of time employed, number of dependents, amount and maturity of loans, and average annual interest rates. All these cagegories are classified by race. In later chapters, the author describes small loan offices and other lending agencies. He then describes the futile efforts to establish small loan regulation in the Carolinas, summarizes such regulation in other states, and finally sketches the creditable system of small-loan regulation in Virginia. There is a bibliography; also an appendix and an index. The book contains useful, yet not unusual or unexpected, information.—GARLAND DOWNUM.

Interstate Trade Barriers (H. W. Wilson Co., pp. 215, $1.25) adds another to the long list of Reference Shelf compilations previously prepared by Julia E. Johnsen. Articles, testimony presented before the Temporary National Economic Committee, conference addresses, and tax association bulletins supplied the materials included in the work. As this compilation was prepared largely with a view to supplying materials for debates and public discussions, arguments both for and against interstate trade barriers are included, as well as historical material and suggestions for the future handling of the problem. This work is not advanced as an exhaustive study of interstate trade barriers, but it serves a useful purpose in collecting in one volume materials not otherwise readily available. The statement that a survey, only partially completed, has uncovered 1,489 trade-barrier provisions in the laws of the various states serves to emphasize that this is a present-day major domestic problem.—CHRISTIAN L. LARSEN.

FOREIGN AND COMPARATIVE GOVERNMENT

The wind of Pan Americanism (no cynicism is intended) has been sowed and a whirlwind of books on related topics is being reaped. One of the latest of these is Virginia Prewett's *Reportage on Mexico* (E. P. Dutton and Co., pp. 332, $3.00). The book is exactly what the title suggests: a reporter's account of current Mexican developments and problems. It is a good book, though not a great one. For a popular account, this study shows a com-

mendable amount of insight and poise. The chief fault, especially in the early chapters, is one of over-simplification resulting from too much condensation. There are a few evidences of lack of adequate checking before publication; Mexican proper names are occasionally incorrectly used; and, while the lack of documentation is understandable in a study of this sort, a bibliography would be helpful even in a popular treatment. The large part of the book is devoted to a consideration of problems of the last decade. These are on the whole very intelligently handled. The author makes a valiant, and generally successful, effort to untangle the confused skein of Mexican political alignments. In much of her analysis she leans mildly to the left, although in the chapter on the 1940 election her position is strongly pro-Almazán; this position, it might be remarked without prejudice to her conclusion, appears based on too narrow a sampling of evidence. The chapter on Trotsky's assassination is brought in without sufficient articulation with the main thread of the story, but is a worth-while discussion in itself. The final chapter has a very well done analysis of Mexican strategic considerations, the development of the army, Nazi infiltration, and related topics. The author correctly emphasizes the importance of economic factors in Mexican politics and arrives, withal, at a gloomy conclusion in regard to the country's economic future.—RUSSELL H. FITZGIBBON.

In view of the probability that steadily increasing governmental control over both the recording and dissemination of objective data regarding internal conditions in Japan will make it perhaps impossible before long for anyone to get such facts, Hugh Borton's *Japan Since 1931; Its Political and Social Developments* (I.P.R. Inquiry Series, International Secretariat, Institute of Pacific Relations, pp. xii, 139, $1.25) is a book which badly needed to be written. Into its brief pages the author has packed a mass of carefully documented material not to be found elsewhere in such small compass; material which will grow increasingly important, as sources dry up, not only for those interested in the political, economic, and social developments of Japan during a crucial decade, but for everyone concerned with the how and why of totalitarianism as a way of life. Source materials available to the author have been conscientiously explored and used. One's natural regret over the dearth of direct reference to materials in the Japanese language is softened by the knowledge that in Japan approved translations of the more important documents were, for the period covered, fairly well available, and that virtually all writings by Japanese in foreign languages had to have official approval. Under these circumstances, it is doubtful whether any fair-minded Japanese would challenge the facts as presented. In the way of supplementary comment and speculation, the author has been extremely frugal, but perhaps for this very reason all the

more effective. The reader can readily draw his own conclusions to supplement those which the author so sparingly presents.—ERNEST B. PRICE.

Scholarship is put to strange uses when it offers its results under a misleading label designed to attract attention through appeals to momentary and superficial viewpoints. *The Decline of French Democracy; The Beginning of National Disintegration*, by Mary E. Weyer (American Council on Public Affairs, Washington, pp. 73, $1.50), is simply an investigation of French politics and government during a part of the year 1914. In a short Introduction, André Maurois attempts to answer the question, "Why then was the final result a victory in 1918, a defeat in 1940?" The little volume begins with an analysis of the Chamber elections of April and May, 1914, proceeds through chapters on the assassination of Jaurès, mobilization, war legislation, union sacrée, military events, censorship and the press, and ends with the flight to Bordeaux. In other words, it covers events from the end of April to the middle of September, 1914. The treatment of these events is good, but by no means exhaustive. The reviewer, however, finds nothing in this treatment to support the volume's title, and certainly nothing to challenge Renouvin's conclusion of 1925 that "among the great belligerent states, France was indeed that one which . . . remained most faithful to its traditions and to its constitutional principles."—J. G. HEINBERG.

Frieda Wunderlich's *British Labor and the War* (New School for Social Research, pp. 67, $0.40) examines the whole question of British Labor's relation to the present conflict. The brochure is divided into two parts—the first concerned with the recruitment and allocation of labor; the second, with such aspects as stoppages and hours of work, wages, social services, social conditions, trade unionism, and war, and the political attitude of Labor. The author shows that Great Britain has lagged far behind Germany in systematic industrial training for the war; that the program of slum clearance has practically ceased because of the conflict; that schooling of thousands of children has become very meager; and that, quoting Clara Rackham, standards for child-labor "have melted like snow in a few months." Despite the admitted dangers which war has in store for the labor movement and democratic control, Miss Wunderlich concludes that, while "the framework of British war planning may be totalitarian, . . . the spirit remains democratic."—MULFORD Q. SIBLEY.

In *England Speaks* (Macmillan Co., pp. 222, $1.75), A. P. Herbert, A. A. Milne, E. M. Forster, A. S. Duncan-Jones, Ronald Knox, J. R. Clynes, C. E. M. Joad, and Harold Laski defend the British position in the present conflict. Several of the essays are well done. One is particularly impressed,

for example, by Clynes's vivid contrast between the individualistic, shoddy England of his boyhood and the embryonic service state of today. One is moved by Laski's picture of the "Rights of Man" and his denunciation of their negation in contemporary Germany. But the fundamental question is evaded by the authors: while showing with considerable clarity why they believe that the British way of life is worth defending, they assume without argument that war will perform the task. They demonstrate the reality of British social progress, but the crucial problem of war's efficacy as a means of defense is almost totally ignored. This war is one "for civilization," according to Professor Joad, or for "the Nazarene," according to Father Knox; but no endeavor is made to prove that war can in fact either save "civilization" or rescue Christ. The future American Committee on Public Information might find this book helpful in its conscription of intellectuals.—MULFORD Q. SIBLEY.

In *A Selected List of Books and Articles on Japan in English, French, and German* (American Council of Learned Societies, pp. 142, $1.50), Hugh Borton, Serge Elisséeff, and Edwin O. Reischauer have compiled a very helpful and critical bibliography of works dealing with the humanities and the social sciences with respect to Japan. Any academic institution desiring to build up a working library on Japan will find this bibliography indispensable. The comprehensiveness of the bibliography is indicated by the fact that in the field of Japanese history and politics there are some 235 titles, most of which are evaluated by the compilers. The Committee on Japanese Studies of the American Council of Learned Societies is to be congratulated upon publishing so valuable a guide.—WILLIAM BALLIS.

INTERNATIONAL LAW AND RELATIONS

The peace rôle of organized labor during the first World War and labor's unsuccessful efforts to secure a "people's peace" at Versailles are delineated in scholarly fashion by Austin Van der Slice in his *International Labor, Diplomacy, and Peace, 1914–1919* (University of Pennsylvania Press, pp. 408, $4.00). This thoroughly documented study fills competently a serious gap in the voluminous literature on this period. It will be welcomed by all students of labor and international relations. Happily, Professor Van der Slice has avoided the common error of assuming that the losing side in any controversy relinquishes thereby its claim to historical significance. He persuasively demonstrates that "it is the political program which labor failed to put across that historically will loom as the most important." The author has meticulously set forth the war aims of international labor and the objectives of labor groups in France, Great Britain, and the United States. He relates the hitherto obscure story of the gradual development by labor of a concerted and internationally

directed peace policy and labor's increasing militancy in urging this program upon the Allied governments. The study shows that Wilson's Fourteen Points were substantially a recapitulation of peace terms already formulated by labor, and also demonstrates that Wilson's public diplomacy up to the Armistice was consonant with earlier policies of organized labor. In addition to developing its own peace program, labor throughout the war was prodding the governments to define their war aims. Van der Slice describes the techniques by which labor attempted to pave the way for a peace based not on victory but upon democratic negotiation. Labor's weapons were political pressure and the influencing of public opinion. According to Van der Slice, labor's failure should not minimize the importance of its effort, nor hide the fact that at the War's end labor was the only organized political group with a clear-cut peace program. Perhaps the best chapters are those in which the author recounts labor's tactics during the period between the Armistice and Versailles and the efforts of labor to mold public opinion in favor of the Wilsonian peace program. Labor's unsuccessful "Lobbying at Paris" is discussed fully in the concluding chapter. Worthy of particular attention is a twenty-one page bibliography that should prove invaluable to students of labor's peace activities.—HAROLD W. DAVEY.

Professor G. H. Bousquet has written a penetrating and provocative study of Dutch rule in the East Indies. He has also investigated French administration in North Africa and British rule in India, and his descriptions of Dutch policy are often illumined by contrasts with French and British practice. M. Bousquet emphasizes that his conclusions are based upon a residence of only five months in the Indies. He seems to have been a shrewd observer, and *A French View of the Netherlands Indies* (Oxford University Press, pp. ix, 133), is a realistic portrayal of the actual working of Dutch colonial government. He gives high praise to what Holland has done to raise the standard of living. At the same time, he concludes that she does not propose to surrender control of the empire to Indonesian nationalists, who number only a few hundred thousand intellectuals and urban workmen out of the 60,000,000 in the East Indies. The same situation existed in India twenty-five years ago; but the Dutch and British policies have been diametrically opposite. The British felt it to be their duty to provide every facility for Western education so far as the inadequate revenue allowed; and since 1919 they have also tried to conciliate the Indian nationalists by granting self-government in large instalments. The policy of the Dutch has been to discourage Western education, while promoting elementary education in the native languages. On the political side, they have combined the arrest of pronounced nationalists with a very limited instalment of self-government in the Volksraad. This body is reminiscent

of the legislatures established in India in 1909 by the Liberal government. They combined an immovable executive with an untrammelled popular opposition; and they converted the Indian nationalists into an irresponsible opposition who had unlimited power of criticism and no hope or risk whatever that they would have to assume the responsibilities of office. M. Bousquet feels that in the end the Volksraad will produce the same results as its British predecessor.—LENNOX A. MILLS.

In his *Diplomatic Relations of the United States with Haiti, 1776–1891* (University of North Carolina Press, pp. xi, 516, $5.00), Rayford W. Logan presents a comprehensive study of the policy of the United States toward the Negro republic which was set up in America on French foundations. In preparing this monograph, the industrious author sought for materials in a variety of manuscript collections, public and private. Apparently neither he nor his agent utilized the important papers long preserved at the Quai d'Orsay entitled *Correspondance Politique, Haiti*. The book begins with a consideration of conditions existing in Saint-Domingue before Toussaint Louverture emerged upon the stage. Among other topics, the author sketches the history of Haiti in the early nineteenth century, touches rather lightly upon the recognition of the independence of Haiti by the government of Charles X, notices the conflict of interest between the Negro republic and the Dominican republic, describes in some detail the recognition of Haitian independence by President Lincoln, and discusses the designs of foreign powers upon Mole St. Nicolas, with special attention to the attempt of the United States to secure a lease of that Gibraltar of America. The narrative is enlivened by quotations from rare or unedited sources and interspersed with striking observations. Though special students of this field of international relations may occasionally disagree with the author's comments, all investigators of the history of the insular republics will find the monograph useful. A bibliography of thirty-six pages constitutes the most extensive and up-to-date list of materials concerning an insular American republic that has yet been made available to scholars.—WILLIAM SPENCE ROBERTSON.

In his *World-Wide Influences of the Cinema; A Study of Official Censorship and the International Cultural Aspects of Motion Pictures* (University of Southern California Press, pp. xvi, 320), John E. Harley emphasizes the motion picture as a means of creating better understanding between nations. He describes a number of the chief organizations interested in the peaceful services of this medium, and analyzes recent efforts to aid them, through lowering tariff barriers on films and by other means. On the negative side, he recognizes that certain films arouse ill-will. The volume deals with the problem so raised, by reviewing the efforts of official and occasional unofficial censors, located all over the globe, to check the

distribution of foreign films deemed offensive to their countrymen or to third parties. Written in the closing months of 1939 and the beginning of 1940, the volume is mainly descriptive of the conditions prevailing just prior to the present war, as typified by the assistance rendered to the distributors of educational films by the League of Nations. To some extent, however, the text does cover current problems, such as the decline in American film exports brought about by hostilities in Europe, and the tightening of news-reel censorship by the belligerent powers. Harley expresses the hope that this disturbed situation will soon be replaced by an era when films can again carry the spirit of peace throughout the globe. Much of the volume consists of quotations from current literature or original material obtained directly from censors stationed in other lands, interspersed with somewhat limited comments by the author. Though the volume is essentially a detailed compilation, it throws so much light on the international flow of ideas as to make it excellent reading.—WILLIAM BEARD.

If Canada and the United States are viewed as a whole, they constitute another "British Isle" because of their common topography, their common culture, their common economic ideas, their common devotion to democracy, and their common need of an island military strategy. Thus a new and challenging perspective intrigues the reader of F. R. Scott's *Canada and the United States* (World Peace Foundation, pp. 80, $0.50). The Ogdensburg Agreement of August 17, 1940, establishing a permanent Canadian-American Defense Commission, added another piece of administrative machinery to bind the destinies, not only of two great neighbor nations, but also of two great commonwealths—namely, the British Commonwealth of Nations and the Pan-American Union. Indeed, the author's theme centers upon the far-reaching implications of the Ogdensburg Pact. It is Dr. Scott's contention that such a military plan must inevitably involve an economic plan and a political plan for all of North America; that such a plan for North America, in its turn, involves for the United States the assumption of interests and responsibilities throughout the globe, and for Canada, the assumption of interests and responsibilities in the whole of the western hemisphere—a reciprocation of interests heretofore not entertained. Truly in pushing the frontiers of the future, this book justifies its place in the series "America Looks Ahead." Written by a Canadian who is master of his subject, who understands Americans, and who is deft at the art of interpreting his people to them, this book is worthy of serious contemplation and wide circulation.—FRANCES REINHOLD FUSSELL.

In *The Struggle for North China* (I. P. R. Inquiry Series, International Secretariat, Institute of Pacific Relations, pp. xiv, 247, $2.00), George E. Taylor throws much light upon the failure of the Japanese to solve in three

and a half years, an "Incident" which they expected to conclude in three months. During the first two years of the present war, Professor Taylor, who is now head of the department of Oriental studies at the University of Washington, was professor of political science at Yenching University in Peiping. His conclusions are thus based, in part, upon personal observations in territories under Chinese control as well as in areas under Japanese occupation. The struggle which he describes is not merely—or even primarily—that of armed forces; it is the underlying political and economic struggle in which a hastily improvised Chinese administration—the Border Government of Hopei, Shansi, and Chahar—has been blocking the efforts of a Japanese-sponsored Provisional Government at Peiping to govern and exploit in the interest of Japan the invaded Northern provinces. In July, 1937, when the "China Incident" started at Lukouchiao, these provinces were politically the most backward part of China; Japanese pressure since 1935 had effectively excluded all efforts at reform, and the peasants "hated the very name of government." To foreign observers, it was unthinkable that this population could be so organized as to offer serious resistance to Japanese plans. By the following March, however, the organization of the rural districts under the Border Government was an accomplished fact, and since that date Japan's puppet règime at Peiping has been an almost total loss. "The main fact that stands out in this struggle for government is that the Japanese had no political weapons which were of any value to them among people not under their immediate military control . . . they relied not on law but on spies, not on political obligation but on political subjugation, not on good will but on terrorism . . . On the other hand, . . . the principles and policies of the Border Government afford one of the finest historical examples of the approximation of political means to political ends" (pp. 95–98).—G. Nye Steiger.

Democracy is government by talk. Wherever democracy survives, public policy is arrived at by discussion. Whether any particular democracy, or democracies in general, shall or shall not perish from the earth depends largely upon whether public discussion is relevant and rational, and is followed by decision and action. Ever since the publication of *The Great Illusion* a generation ago, Norman Angell has made notable contributions to the relevency and rationality of public discussion of international affairs, both in England and in America. His latest book—*America's Dilemma: Alone or Allied?* (Harper and Brothers, pp. x, 226, $1.75)—exhibits his best qualities at their best: incisive analysis of issues, admirable lucidity of thought, singular cogency of reasoning, and a unique persuasiveness flowing from a rare felicity of expression. These ten chapters are addressed to Americans in general and to isolationists in particular. Sir Norman assumes that political animals, including Americans, can learn from experi-

ence, including that of Europeans. His second chapter, with appropriate quotations from Lindbergh, Beard, Upton Close, and other apostles of "minding our own business," is the best brief statement of the isolationist position which this reviewer has ever encountered. The remaining chapters are the most closely reasoned refutation of that position which has yet appeared. Item by item, the author punctures current hallucinations. Point by point, he states the case for aid to Britain and for American leadership in world reconstruction. This is more than a tract for the times, however, for it is rich in penetrating insights and in shrewd characterizations of persons and peoples. Sir Norman is a political scientist and a social psychologist as well as a propagandist. *America's Dilemma* therefore deserves the careful attention of academicians as well as of citizens in general. —FREDERICK L. SCHUMAN.

Although *Dollars in Latin America; An Old Problem in a New Setting* (Council on Foreign Relations, pp. vii, 102, $1.50), by Willy Feuerlein and Elizabeth Hannan, presents few facts unfamiliar to the specialist in inter-American relations, it nevertheless is a convenient summary of the investments of United States citizens in Latin America and the problems arising from them. It also contains a number of suggestions regarding economic and diplomatic procedure—suggestions which harmonize for the most part with recent phases of the Good Neighbor policy: loans for constructive purposes under joint management, credits to ease exchange difficulties, and plans for the disposal of surplus commodities. The main problems are lack of Old World markets and economic nationalism in Latin America. The volume is sane and impartial; the authors appreciate and discuss both sides of the problems that have arisen. One phase of the subject which they largely neglected, however, may be of greater importance than the authors have realized, namely, the record of the investment bankers of the United States in the 1920's. The truth, if set forth fully and judiciously, probably would be on the whole helpful in the development of harmonious relations. In this reviewer's opinion, many Americans, both North and South, have generalized too freely on the basis of certain instances of bribery and excessive profits. A sober narrative of the whole story—with due attention to bond issues previously distributed in European markets—would correct misconceptions and possibly change attitudes in respect to both government bonds and direct investments. The whole subject demands fuller treatment.—J. FRED RIPPY.

Described on its title-page as a "compilation of facts," any criticism of *The European Possessions in the Caribbean Area* (American Geographical Society, pp. v, 112, $1.00) for its analytical shortcomings is largely beside the point. The four authors, Raye R. Platt, John K. Wright, John C.

Weaver, and Johnson E. Fairchild, sought "to bring together in convenient form factual information needed for following the news while the need for such information is still pressing" (p. v). This useful volume contains data on the population, physical geography, resources, industries, trade, government, and strategic importance of these possessions. The six-page "list of references" only emphasizes the need for the present publication by demonstrating the unsatisfactory state of the literature on the subject. Doubtless reflecting the professional interest of the authors, the volume allots space more generously to geographic than to political data. The material is arranged by sovereignties involved. This classification would be well-suited to a volume emphasizing colonial policy, but obscures the geographic similarities of such areas as British Guiana, French Guiana, and Surinam. Comparative tables would permit much of the statistical data to be more readily grasped. Especially useful for political scientists is the essay on the strategic importance of these colonies.—WILLIAM T. R. FOX.

If, as someone once remarked, in times of peace we prepare for war, the corollary is no less true that in times of war we ought to prepare for peace. And Georges Kaeckenbeeck's *De la Guerre à la Paix* (Publications de L'Institut Universitaire de Hautes Études Internationales, No. 22, Genève, Suisse, p. 101) is only one of the many volumes dealing with the subject of peace after war which must inevitably flood the book marts. Here in five short chapters Professor Kaeckenbeeck views the subject not only from the standpoint of abstract theory but also with some special regard to such historical facts as the Hague Conventions, the Treaty of Versailles, the Stimson Doctrine, etc. Although, to be sure, this study has endeavored to treat the matter in its more general implications, it does not altogether do away with the feeling, as indeed it should not, that it might well serve as a guide for those charged, or to be charged, with the establishment of peace after the present war. And if to this be added the author's own fitness and competence to deal with such a subject, the usefulness of such a book becomes indeed great.—BENJAMIN MUNN ZIEGLER.

As a contribution to the fiftieth anniversary of the Pan American Union, the Carnegie Endowment has brought out *The International Conferences of American States: First Supplement, 1933–1940* (Carnegie Endowment for International Peace, pp. xxix, 558, $3.50). It is a collection of official documents of the principal Pan American conferences since 1933, and brings up to date a similar collection published in 1931 for the conferences from 1889 to 1928. There are also valuable appendices which summarize data, hitherto not readily available, for the 159 technical and special conferences which have taken place since 1891 and for the 73 commissions and other bodies which have been set up. An index of persons and a subject-index complete the volume.—JAMES T. WATKINS IV.

POLITICAL THEORY AND MISCELLANEOUS

"When political philosophy is produced in quantities," says George H. Sabine in the introduction to his excellent edition of *The Works of Gerrard Winstanley* (Cornell University Press, pp. 686, $5.00), it is a sure symptom that society is going through a period of stress and strain." This he holds true of the period in which Winstanley wrote, which he characterizes as a time in which all the intellectual, religious, moral, social, and political traditions were broken apart and put together in a new pattern. He cites as symptomatic of "what was taking place" and "as a sign for the future" the treatises of Hobbes, Harrington, and a little later of Locke, as well as the great mass of popular writing of which, along with those of the Levellers, the works of Winstanley are significant examples. The editor, as did Gooch before him, refers to Winstanley's doctrine and the Digger movement as communistic, a designation perhaps justified by the program for the collective tilling of the common land and the suggestion of the ultimate nationalization of all land and all means of production. Winstanley's program and his philosophy, however, had about it essentially little of later Marxian communism. In it there is no place for economic determinism nor for violence. Necessary changes were to be effected directly or indirectly through the spirit of universal love operating in the heart of man. Unlike Marxism, also, his program included a plan for an ultimate political commonwealth. Though a note of irrationalism is struck in the insistence on the Inner Light, the " 'incomprehensible spirit' from which the creation flowed and which continually works in it," this very insistence indicates a marked difference from communistic materialism and imparts to Winstanley's doctrine something much more akin to the present democratic emphasis on the dignity of man. Indeed, so fundamental are the problems plumbed and so universal is the genius of Winstanley, that whether one accepts his solutions or not, his writings are replete with significance for the present crisis, and show him worthy of the labor expended in the production of this admirable companion piece to Woodhouse's recent edition of the Army Debates.—ELLEN DEBORAH ELLIS.

In *Technology and Society* (The Macmillan Co., pp. xiv, 474, $3.00), S. Mckee Rosen and Laura Rosen survey the economic, social, and political effects of recent technological developments on our institutional life. After a foreword by Professor Louis Wirth and an introductory chapter on "National Policy and Technology," the authors proceed with a popular description of technological advances in manufacturing, transportation and communication, agriculture, construction, and the professions. The remainder of the book is devoted, in a part for each, to a description of the economic, social, and political effects of these developments. The recurrent theme emphasizes the need for planned social action, based not only

on the present application of modern inventions, but likewise on those inventions not yet applied which may produce revolutionary effects on our way of life and on our institutions. Though such planning is both necessary and desirable, the authors give ample attention to the forms of resistance to change on the part of groups largely affected by new inventions and by the general public. The national government is called upon to assume leadership in planning, even though jurisdictional obstacles impair the effective application of any broad plan. A contrast is drawn between regional planning by the method of interstate coöperation as evidenced in the Port Authority of New York and the Ohio River Sanitation Compact, and by the national government in the T. V. A. program. The selection of these and other examples suggests methods which governmental units have developed to meet the challenge of technology. Well selected tables, charts, and pictographs based on statistical data of recent vintage add to the value of the book. As a text for the student taking but a single course in social science, this book deserves serious consideration.—JOHN D. TOMLINSON.

In *The Devolopment of Religious Toleration in England; Attainment of the Theory and Accommodations in Thought and Institutions, 1640–1660* (Harvard University Press, pp. 499, $5.00), the fourth in a series of books, W. K. Jordan brings to a close his scholarly and authoritative study of the growth of religious toleration in England. The whole series covers the period from the Reformation to the Restoration. The present volume deals with lay and moderate thought on the subject of religious toleration during the two revolutionary decades, and with the re-orientation of Anglican and Roman Catholic thought under the impact of militant sectarianism. The author concludes that "the theory of religious toleration stood substantially complete in 1660," and that the reaction which set in during the first decade of the Restoration merely delayed the "process of accommodating institutions" to the principle generally accepted by "the responsible and sober thought of the nation." In the last chapter, Professor Jordan, by way of summary to the four books in the series, points out the causes of the development of religious toleration and appraises the changes which it involved. Since the author, in presenting the individual contributions to the theory of toleration, gives little attention to their relation to the general intellectual, social, and political trends of the time, the chief value of the volume is its utility as a reference book.—HENRY JANZEN.

F. C. Bartlett's *Political Propaganda* (Cambridge: At the University Press; New York: The Macmillan Co., pp. 158, $1.25), the first of a series of studies of current problems under the general editorship of Ernest Barker, is a concise analysis of the troublesome problem of propaganda.

Intended as a summarization for the general reader rather than an exhaustive scientific treatise, *Political Propaganda* will repay the more serious student for a careful reading. Professor Bartlett, a psychologist, avoids the obfuscations frequently characteristic of his profession. To the author, "propaganda is an organized and public form of the process . . . [of] suggestion." Though he does not commit himself definitely upon how far propaganda may appeal to the rational as well as the emotional nature of man, it is implicit in his argument that he thinks reason as well as emotion plays a significant rôle in propaganda. "He who despises and underrates human instincts and emotions will be ineffective. It is equally true that he who despises and underrates human intelligence will himself, with greater certainty year by year, be despised (p. 103)." Mr. Bartlett refutes the Hitlerian view that constant repetition is the best propaganda since the masses are completely stupid. The tiny volume is an objective warning against absolute statements and easy generalizations concerning human nature and the ability to persuade men to any position simply by employing subtle or magnificent falsehoods. There is no magic to propaganda, no mesmerism based upon some esoteric knowledge of the black art. Undoubtedly propaganda has been much over-propagandized and is sadly in need of being debunked. Intelligent books like *Political Propaganda* should be prophylactic as well as curative.—JASPER B. SHANNON.

Mr. Charles E. Carpenter is a man with a message about a near-panacea which he explains in *Private Enterprise and Democracy* (Longmans, Green and Co., pp. 217, $2.50). Mr. Carpenter's intentions are good; his heart is in the right place; and many of his ideas are pertinently looking in the right direction. The thesis may be stated briefly. The disparity between general consumer spending and savings is one of the fundamental defects of our current economy. This disparity arises from an abuse of the corporate form of business, from shortsighted business price policies, from poorly designed tax laws, from an uncritical acceptance of saving as an unalloyed virtue. Mr. Carpenter, properly enough, distinguishes between over-saving and over-investment, both in his analysis and in his proposed remedies. To correct this central difficulty, Mr. Carpenter suggests a coöperative form of profit-sharing in which labor, management, and stockholders all share the risks and the gains. He has been strongly influenced, apparently, by the Nunn-Bush Shoe Company plan. With some ancillary devices and the exception of agriculture, he thinks this coöperative scheme may be generally applied in the business-industrial world. Corollary parts of his plan include wholesale overhauling of the tax system, with income, estate, and gift taxes dominating the resulting structure—all to be collected by the federal government; by constitutional amendment, the president should be empowered to oblige either house of the Congress re-

jecting a presidential proposal to stand for election; and finally some means must be found to improve the population on a eugenic basis. To the informed person, the book contributes little; to the uninformed, it is likely to be misleading because of the engulfing lacunae in both logic and information.—HARVEY PINNEY.

To believe the absurd is the true test of faith among all fanatics, ecclesiastical and political. No myth of our time is more absurd than the myth of "race," nor more insane and hideous in its social consequences. No myth is adhered to with more stubborn devotion. Social scientists and laymen alike must therefore find answers to such questions as: What is race? What is scientifically *known* about racial differences? What generalizations are warranted from the data? What is *believed* about race and why, and wherein are the beliefs true or false? These questions and a host of others are answered by Ruth Benedict in *Race: Science and Politics* (New York: Modern Age Books, pp. ix, 274, $2.50). The first part of her latest work is a lucid and brilliant summation of what modern anthropologists know, and do not know, about race. The second part is a résumé and critique of the principal doctrines of "racism." Professor Benedict justly observes: "No travesty of anthropomorphic facts is too startling for propaganda to announce if the propaganda is backed by force of arms and concentration camps." Not least among the merits of this excellent study are the concise quotations from anthropologists and racists alike ("What They Say") at the close of each of the eight chapters, and the compilation of recent resolutions of scientific associations on the subject. The closing chapter, "Why Then Race Prejudice?," has implications which statesmen, social psychologists, and students of politics would do well to take to heart: "To understand race persecution, we do not need to investigate race; we need to investigate *persecution*. . . . To understand race conflict, we need fundamentally to understand *conflict* and not *race*. . . . Whatever reduces conflict, curtails irresponsible power, and allows people to obtain a decent livelihood will reduce race conflict. Nothing less will accomplish the task."—FREDERICK L. SCHUMAN.

Professor T. J. Haarhoff, author of *The Stranger at the Gate; Aspects of Exclusiveness and Coöperation in Ancient Greece and Rome, with Some Reference to Modern Times* (Longmans, Green and Co., pp. 140), is a Boer with a British education. In this book it is his endeavor to apply the experience of Graeco-Roman civilization to the contemporary racial and cultural problems of the Union of South Africa. South Africa, like the Roman Empire, is composed of two separate cultural and linguistic constituents. Professor Haarhoff examines the relations between the Greeks and the Romans from the time when the two cultures first established

direct contact with each other until they blended together into the cosmopolitan civilization of the Roman Empire and attempts to deduce from this examination what lessons there may be that can be profitably applied in South Africa today. The author has read widely both in the ancient authors and in the standard modern works. His conclusions are always intelligent, though rarely profound. It is, of course, quite impossible for an American reviewer to determine in how far Professor Haarhoff has succeeded in achieving his aim, that is to say, whether in fact his countrymen, Boers and British, will feel that his book has contributed to a solution of the problems which face them. One point, however, must be mentioned. The Graeco-Roman civilization of the Roman Empire had no internal problem even remotely analogous to the vast Negro population of the Union of South Africa. And it is precisely the kaffirs whom Professor Haarhoff to all intents and purposes completely disregards. This omission gives his book an air of unreality.—CHARLES EDSON.

In celebration of the tenth anniversary of the dedication of the Social Science Research Building at the University of Chicago, the social scientists there invited colleagues elsewhere to meet with them in December, 1939, for addresses and round-table discussions on questions of method and scope in the social sciences. The papers, and summaries of the discussions, have been edited by Dr. Louis Wirth and published by the University of Chicago Press in a volume entitled *Eleven Twenty-Six* (pp. xv, 498, $3.50). The title is taken from the address of the building, 1126 East 59th St. A bibliography of writings during the decade by social scientists then affiliated with the University comprises about two hundred pages of the volume. While much of the discussion recorded reflects the indecisive and inconclusive aspects of talk about scope and method, the cumulative and corporate achievement of the social scientists thus physically housed together so advantageously, and frequently engaged upon coöperative projects related to the local community and region, emerges clearly. Political scientists will join in congratulating their colleagues in "1126" on their accomplishments during the first decade and in extending good wishes for continued success in their collaboration with other social scientists in the future.—JOHN M. GAUS.

The compilation, *Constitutional Chaff—Rejected Suggestions of the Constitutional Convention of 1787, with Explanatory Argument* (Columbia University Press, pp. 197, $2.25), by Jane Butzner, is timely. It is illuminating to reëxamine the discussions which engaged the Founding Fathers. Under each of the Constitution's provisions are set forth the plans which would have replaced or modified it and the arguments in their favor. The author hopes that "this book will be liked by those who enjoy speculating, for

example, on the course of our government if the Constitution had provided that the Senate sit constantly and have full authority over foreign affairs—in other words, by those who read for entertainment" (Preface). More, however, than entertainment is presented. Two appendices show, respectively, what the authors of the Constitution said about judicial review and about a limitation on the number of terms for the president. A third appendix quotes from Major William Pierce's character sketches of the Convention delegates. The book is without documentation. The source used was *Documents Illustrative of the Formation of the Union of the American States* (House Document No. 398, 69th Congress, 1st Session). The author has found much interesting "chaff," and such a volume should have been printed long ago.—MONA FLETCHER.

Philip Davidson's *Propaganda and the American Revolution* (University of North Carolina Press, pp. xvi, 460, $4.00) contains a great wealth of material gathered from original sources and woven into a history of the propaganda of the period. There are quotations from preachers, pamphleteers, newspaper editors, poets, and plain agitators. The quotations have been taken from so many sources and something has been said about so much that at least one reader ended with the feeling that the author would have left a clearer picture if he had given longer excerpts from fewer sources and had discussed them more thoroughly. In the light of our interest in contemporary war propaganda, it is interesting to find clergymen and college presidents presented as among the most active war propagandists of the Revolutionary era. Glittering generalities and name-calling were devices useful then as now. The patriot champions of freedom did not hesitate to suppress opposition newspapers and to hush Tory clergymen by force. Mr. Davidson's evidence of the propaganda superiority of the promoters of the Revolution over the Tories does not lead to new conclusions, but it does contribute to a better understanding of the nature of that superiority.—CHARLES W. SMITH, JR.

The perplexing problem for text writers in the field of economic regulation is the constantly changing content of legislation and significant administrative developments. Charles C. Rohlfing, Edward W. Carter, Bradford W. West, and John G. Hervey have attempted to meet this difficulty by successive editions of their *Business and Government* (Foundation Press, Inc., pp. xvi, 803, $4.00). The fourth edition is now available. The changes introduced have not altered significantly the previous qualities of the volume. The new legislation and court decisions have been added to the pertinent chapters. The chapter on "The Constitution of the United States" has been dropped, and a chapter on "War and Business" added. The latter contains the data on the current defense program avail-

able at the time of publication and some discussion of the United States experience in the first World War. The chapter, "The Control of Unfair Trade Practices," has become "Unfair Trade Practices and Consumer Protection," and now includes food and drug legislation. There is no discussion of the regulation of insurance. It is a little annoying to have Chief Justice Marshall's aphorism on the power of taxation misquoted.—CHARLES B. HAGAN.

A very valuable corrective for an over-simplified interpretation of the internationalism of Karl Marx appears in Solomon F. Bloom's *The World of Nations; A Study of the National Implications in the Work of Karl Marx* (Columbia University Press, pp. 225, $2.50). Mr. Bloom stresses Marx's willingness to acknowledge the importance of nations as facts, his emphasis upon national differences and national traditions (which went so far as to modify substantially the application of his general analysis to such a country as Russia), his emphasis upon the national class (the class which leads a particular nation along the line of progress), his classification of nations in terms of their progress and capacity for progress, and his acceptance of a limited number of large nations as the basis of an ultimate socialist system. Mr. Bloom's study is comprehensive, objective, and generously documented; he is successful in relating his special subject to the major theses of Marx's thought. The book will certainly have value, not only as a critical study of an important and often misinterpreted aspect of Marx's thought, but also as an illuminating study of one phase of nineteenth-century nationalism.—JOHN D. LEWIS.

RECENT PUBLICATIONS OF POLITICAL INTEREST
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AMERICAN GOVERNMENT AND PUBLIC LAW

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